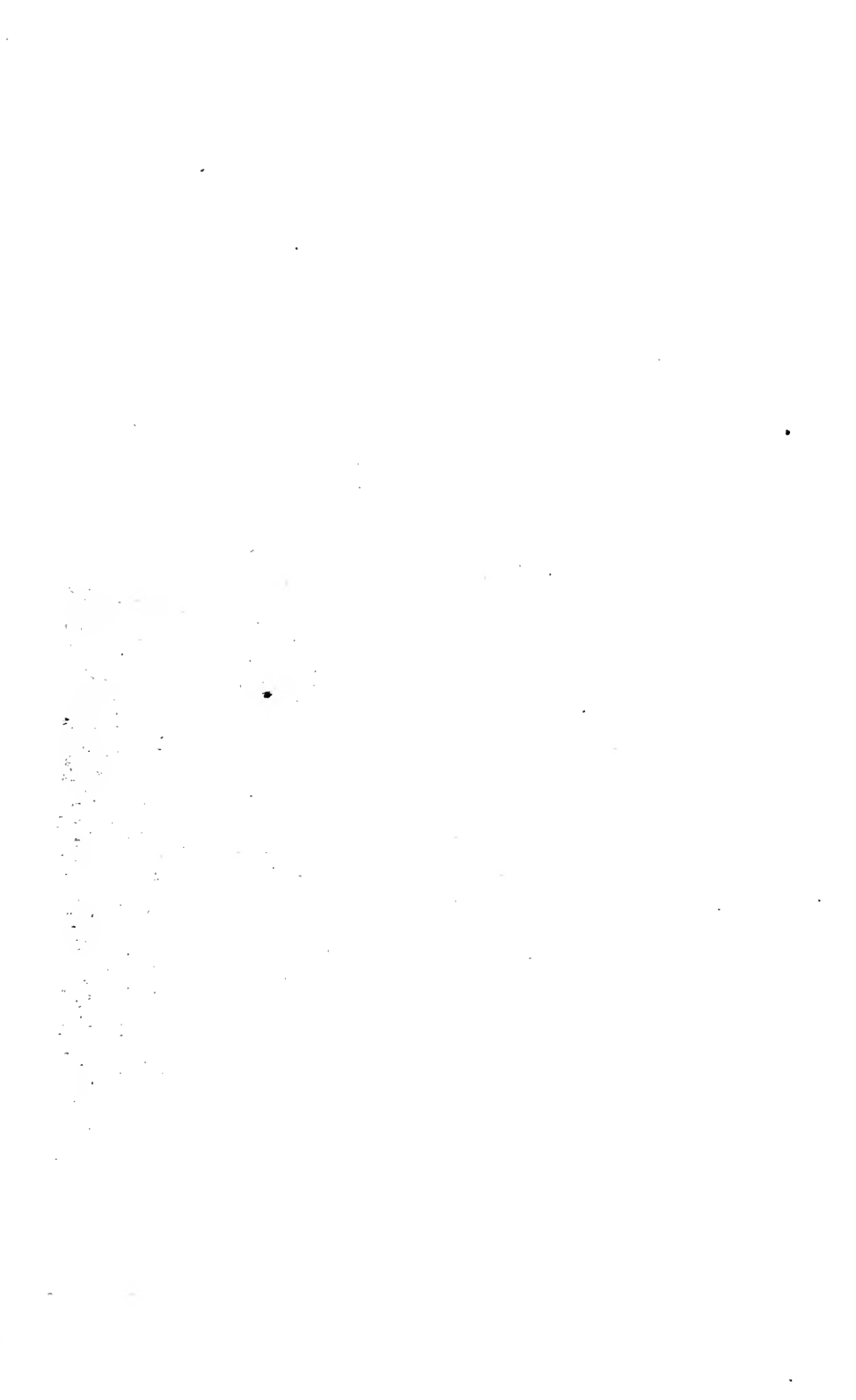


**A
HISTORY
AND
CIVICS
OF
NEW MEXICO**

ADOPTED TEXT









WOODROW WILSON
President of the United States

HISTORY AND CIVICS OF NEW MEXICO

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**"The History of the World
is not intelligible apart
from the Government of
the World."**

—W. v. Humboldt.

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PREFACE

Every branch of Knowledge has its own terminology, which a person must learn if the subject shall ever mean anything to him.

One reason that the average student knows so little about Civics is due to the fact that the ordinary text takes it for granted that the reader knows the terminology of the subject when he has not the least idea of the meaning of the words.

The purpose of this text is to lay the foundations of Civics, which is History crystalized, to acquaint the reader with the meaning of words pertaining to government, usually found in the papers and heard in the ordinary political discussions.

I owe much to Mr. Ralph E. Twitchell, who has furnished the chapters on The History of New Mexico. He used his splendid work, "The Leading Facts of New Mexican History," as a basis for these chapters. He has read this book and made valuable suggestions thereon.

Superintendent of Public Instruction Alvan N. White has read the pages of this book, checking the contents as to subject matter. The author is under

great obligations to Mr. White for many helpful suggestions, but the author alone is responsible for any errors found in the book, and I will appreciate notice of such errors when found.

I wish to acknowledge my indebtedness to Miss Susie Whitaker, who aided me in the preparation of this book.

FRANK H. H. ROBERTS.

April 1, 1914.

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THE LABORATORY METHOD IN CIVIL GOVERNMENT

FOR TEACHER AND PUPIL

Thring very pointedly says: "You never forget a thing you do, cricket for instance, or even the sitting in school. It is part of your life. But your book-work is not part of your life. Make it so. You cannot drop what hand, foot, eye, or brain have really done, it is a part of yourself belonging to hand, foot, eye, or brain, but your book-work is shadow-work, a parrot-like struggle with words."

The mistake of depending wholly upon the text-book is too commonly made. Teacher and pupil fail to realize that abundant material to make this study real, a part of their lives, is at hand. It does not occur to them that civil government may be studied objectively; that it may become a matter of "hand, foot, eye, or brain." This study is usually considered hard, dry and uninteresting, but if advantage is taken of the opportunities presented on every hand it will be found to be fascinating, rich in thought-producing power, a study "that will not let us sleep."

The aim of the average student of this study is to remember the words of the book; to him Civics is words, words, nothing but words.

Before he begins his work he should commit these wise and truthful sentences from Thring's Theory and Practice of Teaching:

"Memory-knowledge as such is absolutely useless.

"Memory-knowledge as training is worse than useless.

"Memory-knowledge is often a disguise for mental incapacity.

"Dead lumps of memory are dead.

"Mind is known by what it puts out. Memory by what it casts in."

What can be done to change the class from dull listlessness, from the dead grind, to the living, inspiring reality? The answer is found in the experiences of a certain class.

When the class studies about primaries, conventions, elections, etc., primaries and conventions are organized and all the business of these organizations is transacted. The extent of the powers of the different conventions varies in the political communities; but in all, their chief purpose is to choose delegates to a higher convention and nominate candidates. The class easily learns from some politician what is done at a primary or convention, and when it is held by the pupils the facts are fastened so permanently in the mind that they are never forgotten. A new interest in the study of government is awakened.

The chairman and secretary of the national, state, and county executive committees are appointed. The national committee holds a meeting and issues a call for the holding of conventions in the various states to

choose delegates to the national convention. Then the state committee holds its meeting and issues a call to the counties to choose delegates to the state convention, and then the county committee holds its session and issues a call to the smallest political divisions (towns, wards, precincts, etc.) to hold primaries to choose delegates to the county convention.

Then the primary is held, and all the business transacted in this particular community by a political party is brought before it. Each member of the class participates as a citizen.

When the county convention is held each pupil is a delegate from some precinct or other political division. If there are more precincts than pupils, each pupil is considered the chairman of a delegation and casts the whole vote of his precinct, two or more of the smaller precincts being combined and assigned to one pupil. But if the number of pupils exceeds the number of precincts several pupils represent the larger division. Delegates to the state convention are chosen, and any other business that would come before a regular convention in the county is transacted.

In the state convention students representing counties choose delegates to the national convention, nominate candidates for electors, and perform any other acts that would properly come before the regular convention of the states.

In like manner the states are allotted to the students who hold the national convention.

Two tickets are nominated in these conventions, and an election is held according to the laws of the state;

with this exception, suffrage is limited to the students of the schools.

Without being set any tasks to remember, these students have learned a great deal that is of real value to them. During these conventions questions of eligibility, of parliamentary law, of right and wrong, are thoroughly discussed. Many a real convention is not half so exciting as these the pupils hold.

In studying the powers of congress, a copy of the tariff law, a custom house receipt, a tax receipt, naturalization papers, certificates of copyright, patent papers, passports, etc., aid the teacher and the pupil to understand what the book means. If the original papers can not be had, blanks may be obtained by writing to the proper officers.

When the class studied naturalization one member was appointed judge of the proper court; another clerk; and a third was considered a foreigner and required to take all the steps of naturalization. Naturalization became a live, real subject to the class. One hundred and twenty questions were asked by the members of the class. books were read, and the difficult phases of naturalization were intelligently discussed.

The amount of this work done must depend on the time and circumstances surrounding the class. Yet one period a week during a term will be sufficient time to accomplish much more than is suggested here. Thus may pupil and teacher live in their work, be interested in it, and master it.

In teaching this book two aims should ever be upper-

most in the mind of the teacher: First, to give the student a proper attitude of mind; second, to give the student the precise meaning of words. The student should be anxious to hunt out the truth for himself and should not be satisfied with the many false ideas held by some educated people.

The teacher, who properly assigns the lessons, has completed the most important part of her work. Parts of this book should be read in class, before the pupil is required to study with the idea of remembering its facts.

In assigning the "Declaration of Independence" for a lesson, read it, then read what the book says before requiring the pupil to study with the intent to remember. In Chapter III, the portions selected from the two constitutions should be read by the pupils,—one pupil should read a clause in the national constitution and another should read the similar clause in the state constitution. The differences, if any, should be pointed out, definitions should be looked for, either in text or the dictionary, and then the lesson should be assigned for study and recitation. Frequently the quotation from either constitution should be located in the proper document at the back of this book.

CIVIL GOVERNMENT OF NEW MEXICO

CHAPTER I

DEFINITIONS AND FORMS OF GOVERNMENT

Science of Civil Government.—The science of civil government is the orderly statement of the principles of constitutional government, and the workings of its institutions.

Institutions.—The laws, customs and occupations of a country are its institutions.

Politics.—Politics is that part of the science of ethics which deals with government, its form, its constitution and its laws; and its preservation against internal and external foes.

In ordinary language, politics usually refers to party strife.

Sovereignty.—Sovereignty is the unlimited, universal power of a state over its individual subjects and their possessions. In whom is this unlimited, universal power vested? In the ruler or in the people? The believer in an absolute monarchy holds that the monarch is the state; that whatever privileges the people obtain are given by the gracious ruler to his people, who have no rights that the monarch is bound to respect. On the other hand, the democrat holds

that this unlimited and universal power rests absolutely in all the people, and whatever authority is exercised by the government has been granted by the real sovereign, the people. History proves both of these ideas wrong.

Sovereignty is shared by part of the people and the government. Whenever a person, or collection of persons, exercises a power from which there is no appeal, real sovereign power, or sovereignty, is exercised.

In England, Parliament, composed of the king, lords and commons, is the sovereign, since there is no restriction upon anything it may do. It may pass a law, amend the Constitution, or annul every local law in the kingdom and no individual or corporation has any right that Parliament is bound to respect. Under the English Constitution, the people choose a part of this sovereign body, the Commons.

In France, the National Assembly, which is formed by both houses of the legislature meeting as one body, possesses sovereignty, since it may change the constitution of the country.

In the United States the situation is more complex. A two-thirds majority of Congress, or a convention called by Congress, for the purpose, may submit amendments to the constitution, and when a three-fourths majority of the legislatures, or conventions, of the various states have ratified them they become a part of the fundamental law of the land. Then Congress, or the National Convention, and the State Legislatures, or the State Conventions, when acting

for the purpose of amending the constitution, are the sovereign body of the land.*

In the commonwealths, or states, the question of sovereignty is quite as complex as in the nation. This unlimited, universal, uncontrolled power of changing the fundamental law of the state rests in the legislature that may call a constitutional convention or submit amendments to the constitution, and in the constitutional convention that adopts a new constitution or adopts amendments to a constitution already in force, and in those people who may vote to ratify either the proposed constitution or amendments.

Sovereignty does not rest with persons under twenty-one, nor with women in a large number of the states; and a very large number of illiterate people are excluded by many states; and the insane, the idiots and the felons are excluded everywhere.

When a state provides for the initiative and referendum on questions involving amendments to the constitution, sovereignty is more democratic.

For the sovereignty to rest entirely in the people, it is necessary for the constitution to be amended by means of the direct initiative and referendum only.

Government.—The government of a State or country is the organization that is vested with supreme political control. Its functions are to make, interpret and execute the laws. All governmental acts may be classed under three heads—legislative, executive and judicial. These functions may be exercised by one

*See Leacock's "Elements of Political Science," Chap. IV.

man or body of men, or they may be divided among several bodies.

The popular opinion holds that the American governments, state and national, have these three functions, or powers, apportioned among the three departments—legislative, executive and judicial—which are separate and distinct from one another, while in fact each department exercises these three kinds of power,—an absolute separation is an impossibility.

Either department may check the other two. The president or governor, with the veto power, offers a check to hasty legislation. The power of the legislative branch in matters pertaining to the duties of officers, to the fixing of their salaries, and to the right of impeachment, puts a restraint upon the executive and the judiciary. By its right to inquire into the manner in which the officers of the executive department discharge their duties and its power to determine the constitutionality and meaning of a law, the judicial department restrains the others.

But no department possesses coercive power over the others. Each department is free within constitutional limits.

Government of England.—Theoretically the government of England consists of three departments: the king as chief executive; parliament consisting of two houses, house of commons and house of lords; and the judiciary; but practically it has but one governmental body, the house of commons. At the *dictation* of the commons, the king chooses the leader of the dominant party as prime minister, who then

selects his cabinet from his own party. These officers who perform executive acts are responsible to the majority of the house of commons.

When they no longer have the confidence of the majority as shown by vote of the members they may resign or dissolve parliament, and call a new election. If the new commons will not pass a resolution of confidence or approval, they must resign; hence the real executive is subordinate to the popular branch of the legislative department.

The house of commons exercises coercive power over the house of lords. When the lords show a disposition to refuse to pass a measure, the commons may, through the prime minister, threaten to create more peers, or to abolish the house of lords entirely, and the lords, for self protection, will generally pass the measure. The courts have no power to declare a law unconstitutional, for the house of commons is omnipotent, "The whole fulness of popular power dwells in it, its will is law." It must be remembered that this is the spirit rather than the legal form of the English government. (See Bryce's "American Commonwealth," page 272 ff.)

Government is either civil or military. The earlier governments were often military, the ruler enforcing his rule by force of arms. As the citizens of a country gain power, the government loses some of its military character. When the military is put into complete subordination to the part of the government that represents the people, the government becomes civil, or government by the people.

The People and the Government.—The people and the government are not the same. This fact is readily observed in many foreign countries but in our own many careless writers and public speakers have failed to see the difference. Public opinion has so frequently influenced acts of the government that these persons have misinterpreted the facts. Those people who believe in the initiative and referendum see clearly the difference. The people are the creators and the government is the creature.

The voters retain the power to ratify or reject proposals to amend the constitution or to change the form of government.

The government does not reform nor alter itself.

THE THREE DEPARTMENTS

While it is popularly held that the three departments of our governments—state and national—are separate and distinct, and many of the state constitutions have declared that an officer of one department should not exercise any of the powers of either of the other departments, yet every state in the Union has officers each of whom exercise the three powers, because it is impossible to make an exact distribution of these powers.

The acts of officers are divided into three classes: legislative, executive and judicial.

Whoever makes or enacts a law exercises legislative power. Whoever executes a law exercises executive power. Whoever interprets a law or decides what is the law exercises judicial power.

The table classifies many of the acts of government:

LEGISLATIVE.

The following are legislative acts:

Levying taxes.

Appropriating money.

Declaring war, ordering soldiers and sailors to be enlisted and equipped.

Fixing salaries.

Ordering buildings to be built, harbors to be dredged, and ships to be constructed and the same to be paid for and the amount to be paid.

Vetoing or signing a bill passed by the legislative body.

Suspending the writ of Habeas Corpus.

Determining the limits of penalties to be exacted for criminal acts.

EXECUTIVE.

These are executive acts:

Collecting taxes.

Taking care of the money and paying it out.

Enlisting soldiers and sailors, equipping the army, the navy and the militia.

Making the internal improvements ordered by the legislative power, i. e., constructing buildings, roads, wharves, ships, dredging harbors, etc.

The granting of pardons, reprieves, and commutations of penalties.

Impeaching.

Indicting.

Appointing.

a. Nominating.

b. Confirming.

c. Commissioning.

Prosecuting persons accused of criminal acts.

JUDICIAL.

The judiciary answers the questions:

What is the law?

What does the law mean?

Does it conform to the constitution?

Has the law been properly executed by the executive officers?

Is the accused person guilty?

What penalty shall be exacted of the guilty person?

Which of two contending persons or parties have the law and facts on their side?

Attainder (the act of finding guilty and taking away certain civil rights) is a judicial act.

The power exercised by the Senate in all cases of impeachment is judicial. The Senate exercises the same functions as judge and jury exercise in cases of indictment.

Determining the particular penalty to be exacted for a crime that has been committed.

KINDS OF GOVERNMENT

Aristotle's "Politics" divides governments into two classes. Those governments which consider the best interests of their country are called true or normal; while those that rule in their own interests are called perversions.

The Normal Governments

1. The kingship or monarchy.
2. The aristocracy.
3. The polity, the rule of the majority.

Corresponding Perversion

1. Tyranny or despotism.
2. Oligarchy.
3. Democracy.

When Aristotle wrote his "Politics" the democracy of Athens had become so corrupt that he uses the term polity for the rule of the majority when exercised in the interest of the people; and applies the term democracy to the perversion of majority rule. But now democracy is used instead of polity and its perversion is called ochlocracy and even anarchy.

The modern divisions are:—monarchy, democracy and republic.

These, like the divisions of Aristotle, are incomplete, since there are states that do not come under any of these forms.

States are like the oaks, they grow, they flourish in the worst of storms, they decline, they die and are forgotten; a set of terms that accurately describes their condition or character during any age of their history is inadequate in any other age, because the conditions have changed but the terms persist.

In 1790 Mirabeau declared, "In a certain sense republics are monarchical, and again in a certain sense monarchies are republics."

In 1814 Schleirmacher maintained that "The terms, monarchy, aristocracy and democracy are always running into each other."

NEW TERMS PROPOSED

The following terms are proposed as more nearly expressing the present facts of government than those that have the sanction of historical use:

1. Hereditary, a government in which the chief

offices are reserved for those of noble birth; e. g., Russia.

2. Elective, a government in which the chief officers are elected, and the others may be elected or appointed; e. g., United States, Denver, Santa Fe and New Mexico.

3. Mixed, a state in which some of the offices are filled by election and some by birth. England is an excellent example of this form; there the kingship and membership in the house of lords are hereditary, while membership in the house of commons is secured by election.

At present, monarchical, aristocratic and democratic are terms that describe the spirit rather than the form of a government. Governments are pendulums making irregular vibrations through the arc,—monarchy, aristocracy, democracy and anarchy.

The government of France swung through the entire arc from the time of Louis XIV, who declared himself to be the state, to the Reign of Terror, a period covering less than a century, and has been making fitful and irregular vibrations toward the extremes of the arc to the present time.

In its history our government has made swings between anarchy, represented by the extreme states-rights doctrine, and monarchy, represented by extreme nationalism, but neither extreme has ever prevailed and it now swings along an aristocratic-democratic arc. These terms are used in their best sense; the aristocratic tendencies are seen in the conservatism of the American voter. Often the minority has been

allowed to govern. Historians are agreed that the federalist party was always the smaller party; because of the American voters' conservative nature it was allowed to govern the country until 1801. The conservatism of the American voter is apparent throughout our history.

Another evidence of aristocratic tendencies can be found in the educational qualifications required in many states.

The democratic tendencies are seen in the extension of suffrage to women, the growing use of the initiative and referendum, and the increasing influence of public opinion on legislative acts.

Many writers would accept the statement made above, but would apply to the expression "aristocratic-democratic" its very worst meaning and believe it true.

A monarchy is a government in which the supreme power is vested in one person, whose will is law, who is the chief executive officer, and the highest judge of the land. Russia, China and Turkey are real monarchies. England approached a true monarchy in the eleventh and twelfth centuries, but in 1215 the monarch was compelled to surrender part of his power, and at different periods other rights were wrested from him, until to-day England is a democratic-monarchy.

But the power of monarchy may be exercised by the government in a republic. James Madison wrote in the *Federalist*, "The accumulation of all powers, legislative, executive and judiciary, in the hands, whether

of one, a few or many, and whether hereditary, self-appointed or elective, may justly be pronounced the very definition of tyranny," which is the perversion of monarchy.

While France has an elective presidency, "the citizens considered as individuals, have no sort of security against possible excess of the administration towards them; it has been and may again become an instrument of despotism." Here is the true monarchical spirit.

A republic is a government in which the chief executive is chosen by electors, who are composed, in some states, of a majority of the voters of twenty-one years of age and over, and in others, of a selected few. In America the chief executive has been called president, governor, mayor, etc., while in European republics he has been called president, doge, gonfalonier, and even king. In Florence the term of office was two months; and in Sparta, which was an aristocratic republic, the two elected kings served for life.

That a government is said to be republican in form is no evidence of the freedom of the people. There are many modern republics that concede but a vestige of freedom to the subjects.

No one has understood this fact better than Mr. Madison, who wrote as follows: "Holland, in which no particle of the supreme power is derived from the people, has passed almost universally under the domination of a republic. The same title has been bestowed upon Venice, where absolute power over the

great body of people is exercised in the most absolute manner by a small body of hereditary nobles."

He defines a republic as "a government which derives all its powers directly or indirectly from the great body of the people, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior."

A democracy is usually defined as a government by the people, or one in which the people perform all the functions of government. If this definition is true, no democracy ever existed or ever will; it is a principle, rather than a kind, of government. In the early history of governments, petty states were governed by chiefs, or kings, who were supposed to rule by divine right, but when democratic principles began to prevail this idea was displaced by the doctrine that the most powerful and influential should rule; but in the complete triumph of democracy it is held that rulers obtain their right to govern by the suffrage of the people. In the present democracies, the people make the laws but leave their execution to some selected officer. This is true of the New England "town meeting," where all the citizens of a township meet to discuss and vote upon questions of taxation, schools, roads, the care of the poor, and any other subject of local interest, but they leave the execution of their sovereign will to officers elected by them at this meeting. In any democratic country, slavery cannot exist; imprisonment for debt and the restriction of suffrage for any reason other than crime and imbecility are impossible. Since Athens, in her

boasted age of democracy, had 20,000 voters and 400,000 slaves, she was only an aristocracy, governed by Pericles, king by common consent, although not holding the title. A government in which all the people choose representatives to carry out their will as expressed in their platforms is a representative democracy or republic.

Those states, among them Wyoming, Idaho, Colorado, Utah, Arizona, Washington and California, that have extended the right of suffrage to women, have done so believing that the true principles of democracy demanded the concession. These are the most democratic states of the Union.

Uni, Unterwalden, Glovis and Appenzell are democratic cantons of Switzerland. Here legislation is proposed and enacted by the people in mass meeting.

Oligarchy.—An oligarchy is a government in which the eligibility to office is restricted to a few, who may be the best or the worst citizens. When the best rule the state, the government is called an Aristocracy. In ordinary language an aristocracy is a country ruled by the rich without regard to other qualifications; historically such a government is called a Timocracy.

Empire.—An empire may be either a monarchy, a democracy, or a republic. An empire has a powerful central government, and a variety of governments subordinate to the general government, extent of territory and a commanding influence on the destinies of other nations.

Is the United States an Empire?—The United States is more than fifteen times the size of the German Empire; it is composed of states, territories and colonies; it has a powerful central government, and the history of the Monroe Doctrine will show that it has exercised a very great influence on the destinies of other American republics.

“No constitution was ever before so well calculated, as ours, for extensive empire and self-government.”
—Jefferson to President Madison in 1809.

“The fabric of American Empire ought to rest on the solid basis of the consent of the people.”—Hamilton in the *Federalist*.

Law.—The law of the United States is composed of rules and regulations, statutes, common law, treaties, and the constitution, to which the first four must conform.

The law of the state is composed of rules and regulations, statutes, common law, and the constitution, to which the first three must conform.

The *constitution* is the fundamental law, formulated in America by the representatives of the people, by whom it is then ratified. While in some other countries the constitution has been “elaborated by every-day experience.”

A *statute* is a law enacted by the legislative branch, and the chief executive.

Treaties are solemn engagements between independent governments, in which each government agrees to conform to certain limitations in her conduct towards the other nation. The only way to enforce

treaty rights is by war. The states have no right to negotiate treaties.

“The *common law* includes those principles, usages and rules of action applicable to the government and security of person and property which do not rest for their authority upon any express and positive declaration of the will of the legislature.”—*Chancellor Kent*.

The American common law is based on English common law, which Sir Mathew Hale declared to be “the wisdom, counsel, experience and observation of many ages of wise and observing men.”

Rules and regulations are made by executive officers. The legislative branch frequently passes a law expressed in general terms and authorizes some executive officer to make rules and regulations carrying into effect the law. A visit to the Postmaster and an examination of his book of laws and regulations will show the student the importance of this kind of law. In the early thirties John C. Calhoun made a great speech in Congress against “executive legislation.” In the states various officers not belonging to the legislative department are authorized by the legislative branch to make rules that have the force of law.

Who makes the law?

The constitution: Usually a convention adopts the constitution and the people ratify the same before it becomes the universal law of state or nation.

Yet the first constitution of Ohio was adopted by a convention and was accepted by general consent without an election. And in Kentucky the convention

of 1890, and in Virginia the convention of 1892, adopted constitutions which were not submitted to the people but were promulgated as the fundamental laws of those states. To promulgate a constitution is to put it into force directly.

Treaties: Treaties are negotiated by the president and ratified by a two-thirds majority of the members of the senate present, provided that a quorum is present. States are not permitted to make treaties.

Statutes: Statutes are the combined work of the chief executive and the two houses of the legislature or of Congress.

Both in the nation and this state there are three parts to the legislative branch,—the chief executive, the senate and the house of representatives. No bill can become a statute without the affirmative vote of the senate and the house, but if the chief executive votes no, that is, vetoes the bill, it is returned to the house in which it originated, where it is again considered. If it receive a two-thirds majority, it is sent to the other house where it is again considered. If it receive a two-thirds vote here, then it becomes a law. This is called passing a law over a veto. Yet no bill can become a law unless it is acted upon by the executive in his legislative capacity.

The common law: The courts by their customs in dealing with cases create the common law.

Rules and regulations: These are made by executive officers and often issued as proclamations. The class should ask the postmaster to see his book of laws and regulations and pick out which are statutes,

passed by Congress, and which are rules made by the postmaster-general.

The President as a law-maker: The President makes law in his own right, or it is made in his name. For example, the organic law of the territory of New Mexico proclaimed by General S. W. Kearney on September 22, 1846, and the early laws of the Philippine Islands, the enacting clause of which reads: "By the authority of the President of the United States, be it enacted."

The President and the Senate make treaties: The President, the Senate and the House of Representatives enact statutes.

The President makes rules and regulations that have the binding force of law.

THE INITIATIVE AND REFERENDUM

While these terms are constantly joined in political discussion the student must understand that one may exist without the other. The tendency of today is to adopt both, yet the initiative is considered by far the more important by many Swiss reformers.

REFERENDUM

Definition: "The referendum is the right of the people to decide on certain laws or measures which have been passed by the legislative body."

Compulsory referendum requires either a certain class of laws, or all laws, to be submitted to the qualified voters for their approval or rejection.

Optional referendum leaves it to the discretion of

the legislature whether or not a law shall be referred to the people.

Referendum on petition. Under this form a law is not submitted unless a certain percentage of the voters petition for its submission.

The three forms have been used in America.

The principle of the referendum has been in use from Colonial days. Constitutions have been amended and even adopted by its use. State legislatures have required a referendum vote in counties or school districts before buildings could be built or certain taxes could be levied. "Local Option Laws" provide for a referendum vote. About 1890 members of the Knights of Labor and of the Farmers' Alliance began to urge the adoption of state-wide referendum, and in 1892 the People's Party, in their national platform, declared for the "legislative system known as the initiative and referendum."

In 1898 South Dakota adopted both the initiative and referendum, but made no use of the same until 1908.

Since then many states have adopted state-wide initiative and referendum.

The method of procedure varies with each state, but the purpose is ever the same, to give the people an opportunity to have a larger share in the making of their laws.

The United States Constitution makes no provision for the referendum in cases of ordinary laws, but all amendments to the constitution must be referred to states for action.

In New Mexico “The people reserve the right to disapprove, suspend and annul any law enacted by the legislature, except general appropriation laws; laws providing for the preservation of the public peace, health or safety; for the payment of the public debt or interest thereon, or the creation or funding of the same, except as in this constitution otherwise provided; for the maintenance of the public schools or state institutions, and local or special laws.”

If petitions disapproving of any law, not in the excepted class, enacted by the preceding session of the legislature are filed with the Secretary of State not less than four months prior to the next general election, he shall submit the question of the approval or rejection of such law to the voters at the next general election, provided that said petitions are signed by not less than ten per centum of the voters of each of three-fourths of the counties and in the aggregate by not less than ten per centum of the qualified voters of the state.

If the majority of the votes cast thereon are cast for the rejection of said law, it shall be annulled and thereby repealed, provided that said majority is forty per centum of the total number of legal votes cast at such election.

INITIATIVE

Legislative initiative is the right to propose legislation.

Popular initiative is the right of the people to propose legislation by petition.

Optional initiative requires the legislature to consider and vote upon any bill presented to it by a body of petitioners.

Compulsory initiative requires the legislature to vote affirmatively upon any bill presented to it by the petitioners.

Direct initiative enables the people to frame a bill and have it voted upon by themselves without the intervention of the legislature.

Although the initiative dates from revolutionary times it has been considered by American reformers of less importance than the referendum.

The initiative does not exist in New Mexico.

THE RECALL

The recall is the power retained by the people to compel an officer to submit to a new election or rejection by the voters before the expiration of his term of office.

The officer is compelled to submit his case to the voters when a required percentage of them sign a petition demanding that he be recalled. If on the holding of an election the majority is against him he must vacate his office at once.

The percentage of signers required to recall an officer varies in the different states. There is no recall in New Mexico. (Read the first paragraph of Article V of the "Articles of Confederation.")

THE RECALL OF DECISIONS

This is one of the recently proposed ideas in government. If the supreme court declares a law unconstitutional, the recall of decisions would allow the people to petition that the question be submitted to them, and if a majority voted for the measure, it would then be constitutional.

There are many people who would apply the recall to all decisions of all courts.

FOREIGN REPRESENTATIVES

There are two classes of foreign representatives: diplomatic and commercial.

Diplomatic Officers.—The diplomatic officers are of three grades: ambassadors, ministers and charge d'affaires. The difference consisting of dignity and rank. They reside at the capitals of the countries to which they are accredited and have charge of political questions that may arise between their nation and the ones to which they are accredited.

The United States sends ambassadors to Great Britain, France, Germany, Italy, Japan, Mexico, Russia, Brazil, Turkey and Austria-Hungary. The salary of each is \$17,500.

Louis XI kept spies at most of the neighboring European courts to inform him of their proceedings. But Ferdinand (1452-1516) who ruled Spain fifty-two years accomplished the same result in a more honorable way. He established resident embassies which greatly facilitated commercial intercourse and

perpetuated friendly relations by leading to the settlement of difficulties by negotiation.

Ministers are sent to smaller countries. The United States has thirty-one ministers. Their salaries vary from \$10,000 to \$12,000.

A charge d'affaires takes the place of an ambassador or a minister during his absence.

When the ambassador is sent to negotiate some special treaty, he is called ambassador extraordinary. Corresponding to the ambassador extraordinary is the minister plenipotentiary.

The United States designated their chief representatives by no higher title than envoy extraordinary, and minister plenipotentiary until 1893, when Congress authorized the appointment of ambassadors.

A Nuncio is an ambassador from the Pope to a foreign court.

Commercial Officers.—The Commercial representatives are divided into consuls, general consuls, vice-consuls, deputy consuls, consular assistant and consular agents.

These officers are sent to manufacturing cities and important business centers. They inspect the invoices of all cargoes that are to be shipped to their countries. They are expected to protect the person and property of fellow country-man while in their consul or jurisdiction.

The consul dates back to ancient Greece.

Federal government.—A federal government is based upon states as units. It deals *entirely with the states, which are equal in power*. When it wants

money, it asks the states for it. The United States under the Articles of Confederation was a federal government. Congress could levy taxes, but could not collect them; could vote to raise an army, but could not enlist a man. James Wilson was the author of the term Federal Republic.

As an example of a federal constitution the student should study the Articles of Confederation.

National government.—A national government is based upon the people, and state lines are obliterated. Mr. Madison, the father of the constitution, wrote: “The constitution is, in strictness, neither a national nor a federal constitution, but a composition of both. In its foundation it is federal, not national; in the sources from which the ordinary powers of the government are drawn it is partly federal and partly national; in the operation of these powers it is national, not federal; in the extent of them, again, it is federal, not national; and finally in the authoritative mode of introducing amendments it is neither wholly federal nor wholly national.”

National features of the Constitution

The members of the house of representatives are apportioned to the several states according to population, and they are elected directly by the people whom they represent directly.

The government acts directly, upon the people in the execution of its laws.

In the electoral college, which chooses the president, the larger states have votes in proportion to their population.

Federal features

Each state is guaranteed one representative in the lower house and two in the upper.

The senators who are elected by the people represent the state.

But it is limited to the extent of its powers, the state has charge of all local interests.

But every state has at least three votes in the electoral college. This gives the small states much greater power than they would possess in a purely national government.

CHAPTER II

GREAT STATE PAPERS

The pupil should know four or five great state papers, such as the Declaration of Independence, the Articles of Confederation, the Ordinance of 1787, the National Constitution, and the State Constitution.

THE DECLARATION OF INDEPENDENCE

Read the Declaration, which may be found in the back of the book, and then study the following analysis and at the recitation read and discuss paragraphs one, two, thirty-one and thirty-two.

When you have read paragraph two read sections two, three and four of the Bill of Rights of the Constitution of New Mexico.

Commit to memory the preamble and paragraph two.

On July 2, 1776, the Continental Congress declared "That these United Colonies are, and of right, ought to be Free and Independent States; and that they are absolved from all allegiance to the British crown, and that all political connections between them, and the State of Great Britain, is, and ought to be, totally dissolved."

On July 4, was passed a declaration that gave the reasons for this action of July 2. This document

was prepared by Thomas Jefferson. The following is a rough analysis of this great state paper:

Paragraph 1. Preamble.

Paragraph 2. Political doctrine.

Paragraphs 3-30. An arraignment of the King.

Paragraph 31. A justification of Colonial acts.

Paragraph 32. The declaration.

The principles enunciated in the second section are very old. They are five in number, as follows:

1. "All men are created equal." The basis of this doctrine was taught by the Stoics, Greek philosophers who lived about 308 B. C.

2. "That men are endowed with certain inalienable rights." Socrates, born 469 B. C., suggests this doctrine. Cicero (106-43 B. C.) developed both the above doctrines.

3. "Governments are instituted among men." Here is an indefinite statement of the Social Contract Theory of the origin of the government which was so popular in 1776. This doctrine originated with Protagoras and the Sophists between 481 and 411 B. C.

4. Government derives its "just powers from the consent of the governed."

5. The right of revolution; the right of people to alter or even abolish their government. Doctrines 4 and 5 were taught by St. Augustine (354-530 A. D.).

For ten centuries these doctrines were discussed by great writers; and they were generally believed by the people of the colonies.

Sections 3 to 29 are copies largely from Virginia's declaration of independence, probably written by George Mason and adopted by the Virginia Convention June 15, 1776.

Great credit is due Washington and Samuel Adams for creating public sentiment in favor of a declaration; to Jefferson for expressing the belief of his time in a *masterly* great document; and to John Adams for securing its adoption by Congress.

THE ARTICLES OF CONFEDERATION

Independence made some form of government necessary.

June 7, 1776, Richard Henry Lee moved the Independence of the "United Colonies" and "that a plan of Confederation be prepared and transmitted to the respective colonies for their consideration and approbation." On June 12 a committee was appointed to prepare a constitution for the federal government. Just one month later, July 12, a draft of a constitution was presented to Congress for its approval. It was debated until November 15, 1777, when, in its amended form, it was adopted and submitted to the states for ratification. The states discussed it for nearly four years, when it was ratified by Maryland and went into effect March 1, 1781.

Virginia, New York, Connecticut and other states owned land between the Ohio and the Mississippi rivers, and Maryland would not ratify the proposed federal constitution until this land was ceded to the general government.

Read the definition for "Federal Government" and then Article V of the Articles of Confederation.

Find the answers to the following questions by reading the Articles:

1. What kind of government was formed?
2. How were the officers chosen?
3. How did the general government obtain money to pay its expenses?
4. How were soldiers secured?
5. Did the general government have any real power?
6. Could the general government levy and collect taxes?
7. Was there a chief executive?
8. Find three prohibitions on the states.
9. Who paid the salary of the members of Congress?

ORDINANCE OF 1787

The famous ordinance of 1787 was promulgated by the congress of the confederation for the government of the northwest territory.

The government erected was a foreign one, very aristocratic in form; the inhabitants, from 5,000 to 10,000 Frenchmen, were not consulted about its form or its erection. The governor had extensive power. He was appointed by Congress for a term of three years and was required to possess 1,000 acres of land lying in the district.

He was given the following powers, for the exercise of which he was responsible to Congress alone:

Executive

He was commander-in-chief with power to appoint all officers below the rank of general officer.

He appointed all county and township officers until the national legislature had convened and provided for their election.

He was entitled to exercise all ordinary executive powers.

The judges, three in number, were each required to possess 500 acres of land lying in the district and were appointed by Congress to serve during good behavior. Their judicial powers extended to a common law jurisdiction.

Their legislative power has been given under the legislative power of the governor.

A secretary was appointed by Congress to report the acts of the government to Congress. He served four years.

The governor had no judicial power and the judges had no executive power. This form of government lasted ten years (1788-1798), before there was a change. The ordinance had provided that a territorial legislature should be established as soon as there were "five thousand free male inhabitants of full age in the district."

The legislative department was to consist of three branches,—(1) The general assembly, composed of members elected by the people, to serve two years;

Legislative

The governor and the three judges formed the legislative branch of the government.

But the legislature was required to choose its laws from the statutes of other states.

He established counties and townships by proclamation.

(2) the council, chosen in the following manner: The general assembly nominated ten men and Congress chose five from the number; these five formed the council and served five years; (3) the governor.

A bill originated in the assembly and if passed it was sent to the council, and if it passed this house it was sent to the governor, who might sign it or exercise absolute veto power.

The governor had power to convene, prorogue, and dissolve the general assembly.

Two immortal sentences that have vastly influenced legislative acts and public opinion are found in this remarkable state paper, the Ordinance of 1787:

“Religion, morality and knowledge being necessary to good government, and the happiness of mankind, schools and the means of education shall forever be encouraged.”

“There shall be neither slavery nor involuntary servitude in said territory, otherwise than in the punishment of crime, whereof the party shall have been duly convicted.”

It seems strange that men that had declared taxation without representation unjust and tyrannical should enact into law this sentence: “The inhabitants and settlers in the said territory shall be subject to pay a part of the federal debts contracted or to be contracted.”

August 7, 1789, the President, George Washington, approved an act that gave him the same power over the northwest territory that had been held by the Congress of the confederation.

THE CONSTITUTION OF THE UNITED STATES

The United States tried one constitution, "The Articles of Confederation," which proved a failure. Several amendments were submitted to the states and rejected. Political chaos reigned in the government. The soldiers were on the point of rebellion; anarchy prevailed in many places.

Washington and many other patriots sought to establish a more perfect government. Their early efforts were failures because of the jealousies existing among the states and the different classes. But the states and the people were finally brought together through their commercial interests.

In 1785 Maryland and Virginia appointed commissioners who met at Alexandria to form a treaty of commerce concerning navigation of waters held in common. If it was wise to have common laws on commerce, it was concluded that a uniform system of currency was desirable. It was but a step to believe that what was desirable for Maryland and Virginia would be advantageous to the whole country. In 1786 Virginia appointed eight commissioners to meet with similar commissioners of other states "to consider how far uniformity in their commercial regulations might be necessary to the common interests and perfect harmony." Twelve commissioners representing five states met at Annapolis in September, 1786. The important action of this convention was a recommendation to Congress to call a convention to revise the Articles of Confederation. Through

the influence of Hamilton and Bowdoin, Congress voted the call for a convention to meet in Philadelphia "for the sole and express purpose of revising the Articles of Confederation."

On May 14, 1787, this convention met, but did not organize until May 25, when it began the most important legislative event in the world's history. Shortly after the convention had organized it was decided that the Articles could not be amended; then, according to the theory that was generally held and their instructions, there was nothing left to do but to go home and report their inability to do anything. But here began the assumption of power that was revolutionary, under the leadership of Washington, Madison, and Randolph. After bitter discussion (the convention was on the point of breaking up several times) it was decided to make an entirely new constitution and submit it to the states for approval.

The next question discussed was the nature of the government—whether it should be national or federal, whether it should be based upon the people as units or upon states. The large states were in favor of a national form, while the small favored the federal. After serious and dangerous discussion, Roger Sherman, the shoemaker, proposed a compromise, that the Senate should be federal, each state having equal power—the thought that the two Senators would ever vote against each other and thus, according to the federal view, lose the state's vote, never entered their minds; and that the House of Representatives should be national, the representation to

be based on population or wealth. When the convention had decided that representation should be based on population, there was a division between the North and South over the question of slavery, the North insisting that the slave was a chattel the same as a horse, while the South insisted that the slave was a person and should be represented. Madison proposed the compromise whereby five slaves counted as three white men, giving the South undue representation. This compromise was adopted. Were the North and South consistent? They had traded platforms. Earlier than this, there was a proposition made that the Congress of the confederation should proportion taxes according to population. Then the North insisted that the slaves should be counted as population, while the South held they were property. We shall see where the South forgets its new stand and holds that the slave is a thing, a matter of commerce, before the convention adjourns. And New England agreed with the South.

When the convention took up the question of the control of commerce by Congress, the New England states contended for control by majority vote; while the southerners, fearing the abolition of the slave trade and unfair treatment by the commercial states, insisted that a two-thirds vote should be required to pass a law on commerce. The three southern states joined with New England, and as a result of their combined vote only a majority vote is now necessary to pass a tariff law; while the slave trade was protected until 1808—the slave had become a matter of commerce.

Other compromises were made. The most striking was an undoubted compromise between state sovereignty and nationalism, which is understood rather than expressed.

The purpose of the convention was to establish an aristocratic or oligarchic republic and not a democracy. Elbridge Gerry, the father of the gerrymander, said: "The evils we experience flow from an excess of democracy." George Mason, "We have been too democratic." Madison, in speaking of the time when a few would own the land, said: "The rights of property will not be secure in their (the people's) hands or they will become the tool of ambition and opulence."

We have come to love our constitution and are so satisfied with it that it is almost impossible to have it amended, but has this always been so? Let us read the testimony of John Adams: "But these (patriots of the Revolution and the substantial citizens of seaboard towns) could never have succeeded in effecting the establishment of the constitution had they not received active and steady coöperation of all that was left in America of attachment to the mother country, as well as of the money interest." Callendar said: "The constitution was crammed down the gullet of America."

TREATY OF GUADALUPE HIDALGO

This treaty is of special interest to the inhabitants of the territory acquired from Mexico as a result of the Mexican War. The treaty, which was proclaimed

July 4, 1848, declares that those persons residing in the ceded territory and not electing to maintain their Mexican citizenship should be protected in their liberty and property and secured in the free exercise of their religion without restriction.

THE CONSTITUTION OF NEW MEXICO

The residents of New Mexico made many efforts before they secured statehood.

August 18, 1846, General S. W. Kearny reached Santa Fe. The next day he spoke to the people and declared his "intention to establish in this department a civil government, on a republican basis, similar to those in our own states." Later, in a proclamation, he reaffirmed the declaration that New Mexico was to have a "civil government similar to those in the states."

September 22 General Kearny promulgated an *organic law, or constitution*, for New Mexico. This constitution provided for a governor and a legislative assembly of two houses, the members of which were to be elected by the people.

December 6, 1847, the first legislative assembly met and enacted a series of laws that were approved February 5, 1848, by General Price, who had succeeded General Kearny.

The people, becoming dissatisfied with the interference of the military, through a convention called by Governor Vigil, petitioned Congress to establish a territorial form of civil government.

In an open letter of August, 1848, Thomas H.

Benton, a powerful Senator from Missouri, advised the people of New Mexico to hold a convention and to provide a government for themselves until Congress should provide them with a government. Acting on this advice, a two days' convention, held in September, 1848, attended by nineteen delegates, adopted a constitution which was placed before Congress by Hugh N. Smith, who had been elected a Delegate by the convention, but Congress did not accept the constitution, hence New Mexico was not admitted to the Union.

The discussion resulting from the endeavor to obtain statehood created two parties, one favoring statehood, the other a territorial form of government. But, learning the wishes of the President, all parties joined in seeking statehood.

A convention, called by Colonel John Munro, Civil-Military Governor, met at Santa Fe, May 15, 1850, and was in session ten days. A constitution was adopted by the convention, and was ratified by the people on June 20. At the same election a full complement of state officers was elected. On July 1 the legislature was convened; Senators were elected, one of whom was sent to Washington to secure the approval of the constitution and the admission of the state. But before he reached Washington congress had passed the "Compromise Bill of 1850," providing, among other things, for a territorial form of government for New Mexico. The new government was established March 3, 1851. Many efforts were made to induce Congress to authorize a state gov-

ernment, but Congress was generally hostile to New Mexico. The twenty-eighth territorial legislative assembly passed an act calling a convention which met in Santa Fe September 3, 1889, and in less than three weeks adopted a constitution, which was submitted to Congress, where it was ignored; and after it had been amended by the same convention, which reconvened in August, 1890, it was rejected by the people.

An attempt to join Arizona and New Mexico and admit them as a single state failed in 1906. In 1910 Congress passed an "enabling act" authorizing New Mexico to hold a convention for the purpose of adopting a constitution. This convention met October 3, 1910, and completed its assigned task November 21, 1910. The constitution adopted was ratified by a vote of 31,742 to 13,399.

Later Congress and the President admitted New Mexico to statehood, but required the submission to the people of an amendment to the constitution which made it possible to amend the constitution more easily. The amendment was added to the constitution by a large majority.

CHAPTER III

PREAMBLES AND DECLARATIONS OF RIGHTS

CONSTITUTION OF THE UNITED STATES

Adopted by the constitutional convention which met at Philadelphia May 14, 1787, but for the want of a quorum, did not organize until the 25th of the same month. Of the sixty-five delegates chosen, fifty-five attended the convention, thirty-nine of whom signed the constitution on the day of adjournment, Sept. 17, 1787. George Washington was president; and William Jackson, secretary.

This constitution was ratified by conventions of states and not directly by the people.

The states ratified the constitution in the following order and by the following votes:

Delaware, unanimously.
Pennsylvania, 46 to 23.
New Jersey, unanimously.
Georgia, unanimously.
Connecticut, 128 to 40.
Massachusetts, 187 to 168.
Maryland, 63 to 11.
South Carolina, 149 to 73.
New Hampshire, 57 to 46.

CONSTITUTION OF THE STATE OF NEW MEXICO

The constitutional convention for New Mexico met at Santa Fe October 3, 1910, and was in session until November 21. The constitution which it had formed was adopted by a vote of 79 to 18; three did not vote. Ninety-two signed the constitution and later one erased his signature. Charles A. Spiess was chosen president and George W. Armijo, secretary.

The constitution was ratified by the people, at a special election, January 21, 1911, by the following vote:

For the constitution, 31,742.

Against the constitution, 13,399.

The constitution was then submitted to the President, who transmitted it, with his approval to the sixty-first congress which adjourned on March 4, without having voted its approval. On August 21, 1911, the President signed a bill providing for the admis-

Virginia, 80 to 79.

New York, 30 to 87.

North Carolina by a majority of 11.

Rhode Island, 34 to 32.

sion of New Mexico into the sisterhood of states.

January 5, 1912, President Taft issued his proclamation making effective New Mexico's admission as a state.

The state government was organized January 15, 1912.

PREAMBLE

"We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution of the United States of America."

The preamble of a constitution declares the purpose of the people in erecting a new government.

While the preamble begins with "We, the people," the constitution was really the work of the states. It is now admitted that if the constitution had been submitted to the people for ratification it would have been overwhelmingly defeated. The imperfect union under the Articles of Confederation led to a desire

PREAMBLE

We, the people of New Mexico, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a state government, do ordain and establish this constitution.

This preamble voices the sentiment expressed in all the states—gratitude for the blessings of liberty, and the feeling that there is security only under state government. The national government exercised such arbitrary power in the rule of the early territories, that the people of a territory felt that they were not secure in "life, liberty and property" until they were protected by a state government.

Mr. Justice Campbell, in assenting to the decision of the court in the Dred Scott case, said, "The first territorial government of Louisiana [the territory of Orleans] was an

for a "more perfect union." Only state courts had existed and the citizens of one state were often unable to secure justice in the courts of another state, hence "to establish justice," it was necessary to establish a system of courts. The states had been on the verge of war with each other and rebellion had existed in many of them; a government that could "insure domestic tranquillity" was necessary. The old form had proven itself inadequate to "provide for the common defence." The members of the convention well understood the danger that beset the country. England and France each hoped to gain possession of a portion of the country, if not all, through the bickerings and quarrelings of the states. If the blessings of liberty that had been secured at such sacrifice of life and property were to be maintained, it must be by a government that would be respected by other governments.

DECLARATION OF RIGHTS

A declaration of rights is a formal statement of popular rights which the government must not abridge nor deny. In 1688, when William and Mary

imperial one founded upon a French or Spanish model."

In Congress, in speaking of the same government, Mr. Campbell declared in 1804, "It really establishes a complete despotism."

It is true that this early territorial government was repugnant to the American political conscience, and congress soon changed the form, giving a territorial legislature control over local interests. Yet this could be withdrawn at any time. The Supreme Court has held that, "It (Congress) may declare a valid enactment of the territorial legislature void, or a void enactment valid, although it reserved in the organic act no such power."

DECLARATION OF RIGHTS

The necessity of a distinct declaration of rights in the constitution of a republic is not so obvious as it is in a monarchy.

came to the throne of England, parliament issued a declaration of rights which the new sovereigns accepted.

It is usually said that the constitution in its original form contained no such declaration, but there are at least seven such declarations. In 1791 the first ten amendments were added to the constitution; these amendments are usually designated as the declaration of rights of the national constitution. The colonies issued declarations of rights in 1765 and 1774, which have influenced the members of every constitutional convention held in America.

The following provisions are taken from the English declaration of rights:

“That it is right for subjects to petition the king.”

“That the raising or keeping of a standing army * * * unless it be with the consent of parliament, is against the law.”

“The freedom of speech, and debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament.”

Guarantees against hereditary monarchs may be needed, but it seems the people hardly need such guarantees against themselves.

Yet, when the nation and states began constitution making, public opinion did not influence the acts of the government so readily as now, and there was a distinct need of such provisions. But the constitution makers of the state understood the real power of the people, as evidenced by the following declaration:

ART. II, SEC. 2. All political power is vested in and derived from the people; all government of right originates with the people, is founded upon their will and is instituted solely for their good.

This declaration distinctly states that the people are not the government but are the creators of the government. The people are supreme. The government is their servant, and when it fails to do their bidding it may be altered, reformed or abolished. This doctrine is set forth in nearly every state constitution.

RELIGIOUS FREEDOM AND FREEDOM OF SPEECH.

CONSTITUTION OF THE UNITED STATES

ARTICLE I (*Amendment 1*). Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble and petition the government for a redress of grievances.

Article VI of the constitution provides, "No religious test shall be required as a qualification to any office or public trust under the United States." These are the only provisions in the federal constitution upon these subjects.

While congress is prohibited from establishing and supporting out of the treasury a national church, Judge Cooley says: "The courts of the union and the states, in administering the common law, find it necessary to take notice that the prevailing religion of the country is Christian." Congress has never attempted to violate the first clause, Article I, but the second and third have been notoriously broken.

CONSTITUTION OF NEW MEXICO

ART. II, SEC. 5. The rights, privileges and immunities, civil, political and religious, guaranteed to the people of New Mexico by the treaty of Guadalupe Hidalgo shall be preserved inviolate.

ART. II, SEC. 11. Every man shall be free to worship God according to the dictates of his own conscience, and no person shall ever be molested or denied any civil or political right or privilege on account of his religious opinion or mode of religious worship. No person shall be required to attend any place of worship or support any religious sect or denomination; nor shall any preference be given by law to any religious denomination or mode of worship.

ART. II, SEC. 17. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given

The sedition law is an example of the violation of the second. Under this law one man was fined \$400 and given six months' imprisonment for saying that Adams's administration was "wholly in the infancy of political mistakes." By the notorious "gag rule" of the house, the right of petition was denied to the opponents of slavery for several years. There was no power to punish the house for violating the constitution, but public sentiment became so strong that it was finally heeded and the rule repealed.

Article VI of the constitution provides that legislative, executive, and judicial officers both of the United States and of the several states shall be bound by oath or affirmation to support the constitution but no religious test shall be required. The constitution of Missouri, 1820, provided that no bishop, priest, clergyman, or teacher of any religious persuasion should be eligible to membership in either house of the legislature, or to hold any office of trust, except the office of justice of the peace. This provision was held to violate the provisions of Article VI, and to be therefore void.

in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the party shall be acquitted.

The question is often asked why the states adopt provisions that are identical with those found in the amendments to the national constitution. The courts have held that the amendments impose restrictions upon congress only, hence it is necessary that each state re-enacts these clauses if it wishes to limit the power of its government.

Many persons prefer the short, terse expressions of the national constitution to the more elaborate clauses of the state constitutions.

Section 11 does not prevent the legislature from establishing a day of rest, since such an act is a municipal or police regulation. Nor does it violate this provision that the Christian Sunday has been chosen for the day of rest.

The states are free to establish a church, restrict the press, or deny the right of petition.

RIGHT TO BEAR ARMS. "EVERY MAN'S HOUSE IS HIS CASTLE."

ART. II (*Amendment II*).

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ART. III (*Amendment III*).

No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war but in a manner to be prescribed by law.

The oppression of the British government was so grievous that the fear of the use of tyrannical power is still in the people and they insist on safeguarding themselves even against a government of their own making. The attempts of the mother country to prohibit the colonial militia and the passage of the mutiny act are responsible for these provisions. The right to bear arms is given to the people as a whole and not to the individual, and the arms must be "such as are suitable for the general defense of the community against invasion or oppression; and the secret carrying of those suited merely to deadly individual encounters may be prohibited."

ART. II, SEC. 6. The people have the right to bear arms for their security and defense, but nothing herein shall be held to permit the carrying of concealed weapons.

ART. II, SEC. 9. The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

These provisions have not been violated by the government of New Mexico, and probably never will be. "Nevertheless a declaration of the indefeasible right of the citizen can never be wholly needless."

"Owner" means the occupant in possession of the house.

Section 9 states a fundamental principle of true democracy when it declares that the "military shall be in strict subordination to the civil power." In a monarchy the military is in complete control of the government.

This puts the general assembly in complete control of all questions of war, of arming and equipping the militia and

The maxim of the common law, "every man's house is his castle," is, in Article III, made part of the constitution.

leaves the governor, the commander-in-chief, to carry out its directions.

PROTECTION AGAINST UNREASONABLE SEARCHES.

ART. IV (*Amendment IV*). The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

"A warrant is an authority to do some judicial act, a power derived from some court to take some person or property."

In law, search warrants are divided into two classes, general and special. The former is issued without the name of the place to be searched or the thing to be seized. Slaves were never treated as coming under this provision.

ART. II, SEC. 10. The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures, and no warrant to search any place, or seize any person or thing, shall issue without describing the place to be searched, or the persons or things to be seized, nor without a written showing of probable cause, supported by oath or affirmation.

This prevents an officious officer from harassing any one he pleases and from committing robbery in the name of the law. Just before the revolution, Great Britain issued general warrants, called writs of assistance, which were used to intimidate the people. The effect has been that this safeguard is in every state, as well as in the national constitution.

TRIAL BY JURY IN CRIMINAL CASES AND THE RIGHT OF THE DEFENDANT AND RIGHT OF EMINENT DOMAIN.

ART. V (*Amendment V*). No person shall be held to an-

ART. II, SEC. 14. No person shall be held to answer for a

swer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ART. VI (*Amendment VI*).

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be con-

capital, felonious or infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the militia when in actual service in time of war or public danger. In all criminal prosecutions the accused shall have the right to appear and defend himself in person, and by counsel; to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have the charge and testimony interpreted to him in a language that he understands; to have compulsory process to compel the attendance of necessary witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

ART. II, SEC. 15. No person shall be compelled to testify against himself in a criminal proceeding, nor shall any person be twice put in jeopardy for the same offense; and when the indictment, information or affidavit upon which any person is convicted charges different offenses or different degrees of the same offense and a new trial is granted the ac-

fronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

“No person” referred originally to free white people. Negroes were often proceeded against without indictment. But since the fourteenth amendment the expression “no person” undoubtedly has a broader meaning.

An indictment is a written charge of crime presented to a grand jury and by them certified to be a “true bill,” or “not a true bill.”

A presentment is a formal accusation by a grand jury from their own knowledge, without any bill of indictment laid before them.

In time of peace no one, except a member of the army or navy, can be tried for treason, piracy or felony unless an indictment has first been lodged against him and found to be a true bill by the grand jury. But congress has power to provide for the punishment of military and naval offenses in the manner practiced by civilized nations.

If a person is tried for a

crime, he may not again be tried for an offense or degree of the offense greater than the one of which he was convicted.

ART. II, SEC. 18. No person shall be deprived of life, liberty or property without due process of law; nor shall any person be denied the equal protection of the laws.

ART. II, SEC. 20. Private property shall not be taken or damaged for public use without just compensation.

The right to take private property for public use is called the right of eminent domain. In 1215 the English people embodied the common law on the subject of eminent domain in the Great Charter as follows: “No freeman shall be taken or imprisoned or disseized of his freehold, or liberties, or otherwise destroyed but by lawful judgment of his peers, or by the law of the land.”

But this does not provide compensation as required by American constitutions. There is no provision for taking private property for private use.

The right of eminent domain exists in state and nation, and is sometimes delegated to private corporations to be exer-

crime and acquitted by a petit jury and again put on trial for the same offense then he has been "twice put in jeopardy."

cised in the execution of work from which the public will receive some benefit. Navigable rivers or lakes cannot become private property.

RIGHT OF TRIAL BY JURY IN CIVIL CASES AND THE COMMON LAW.

ART. VII (*Amendment VII*).

In suits of common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined, in any court of the United States, than according to the rules of the common law.

The common law here alluded to is the Common Law of England and not of any state.

The *common law* or *lex non scriptu* in those immemorial customs of the courts that date back into English history so far that mind of man runneth not to the contrary. The common law holds where no statute has been passed to the contrary.

There are two juries, the grand and the petit. The grand jury consists of not fewer than sixteen nor more than twenty-three, any twelve of whom may find an indictment to be a true bill. They

ART. II, Sec. 12. The right of trial by jury as it has heretofore existed shall be secured to all and remain inviolate. In all cases triable in courts inferior to the district court the jury may consist of six. The legislature may provide that verdicts in civil cases may be rendered by less than a unanimous vote of the jury.

There is no direct provision in the New Mexico constitution concerning the English common law. In 1876 the legislature passed an act making the common law a part of the law of New Mexico. The courts of the state adopt the principles that are adapted to the circumstances, state of society and form of government.

The national and state jury system:

The grand jury consists of twenty-one members and the petit of not fewer than twenty-four, twelve of whom try any issue before the court.

sit in secret session and look into all charges of crime committed in their district, and, if they are satisfied that there is sufficient evidence against the accused to justify a formal trial, they return the indictment to the court, with the proper indorsement.

The petit jury tries both criminal and civil cases in open court and renders a decision after both sides have been heard. It consists of twelve men, all of whom must agree to the verdict.

In the court of the justice of the peace the jury consists of six.

The grand jury consists of twenty-one members; twelve members may find an indictment to be a "true bill."

EXCESSIVE BAIL.

ART. VIII (*A m e n d m e n t VIII*). Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

This amendment is taken word for word from the English Bill of Rights. "Bail is delivery from custody on security."

Bail should not be fixed at a sum so large as to purposely prevent a person from securing it.

ART. II, SEC. 13. All persons shall be bailable by sufficient sureties, except for capital offenses, when the proof is evident, or the presumption great; excessive bail shall not be required; nor excessive fines imposed; nor cruel and unusual punishments inflicted.

"That reasonable bail shall be accepted is an admonition addressed to the judgment and conscience of the court or magistrate empowered to fix the amount; it is impossible that a definite rule shall be established by law for particular cases."—*Judge Cooley*.

CERTAIN RIGHTS RESERVED.

ART. IX (*Amendment IX*). The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

ART. X (*Amendment X*). The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

The government of the United States can exercise only those powers which are delegated to it by the constitution, while the state governments may exercise any power not denied to them by the national and state constitutions. The chief distinction between the leading political parties has grown out of the question whether the national government is limited to the expressed declarations of the constitution or whether it may exercise implied powers.

ART. II, SEC. 23. The enumeration in this constitution of certain rights shall not be construed to deny, impair, or disparage others, retained by the people.

The rights retained by the people are stated in the declaration of rights in the constitution.

The government of the state can do anything not expressly denied by the constitutions of the state and nation, since the constitution in general terms vests the legislative power in the legislators, the executive power in the governors, the judicial power in the courts, without restriction upon the use of these powers, except as stated in the constitution.

WRIT OF HABEAS CORPUS.

ART. I, SEC. 9. 2. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion

ART. II, SEC. 7. The privilege of the writ of habeas corpus shall never be suspended, unless in cases of rebellion or

or invasion, the public safety may require it.

Habeas corpus is a Latin phrase meaning "you may have the body." It is a writ that commands a person having another under arrest to bring him into court and give the cause of his arrest. If the judge is not satisfied that the prisoner is legally held, he releases him. This prevents the arrest and detention of persons without good and sufficient reasons.

The question is, which branch of the government has the right to suspend the privilege of the writ. During the civil war, the executive assumed the right, but later congress passed a law legalizing the suspension, thus indicating that it believed that the right belonged to the legislative branch.

invasion the public safety requires it.

The New Mexico constitution leaves in doubt the question, who has the power to suspend the writ of habeas corpus.

The suspension of a law is a legislative not an executive act, and is properly exercised by the legislature. As the national constitution makers left the matter in doubt, so did the state's.

Colorado's "Bill of Rights" contains a section identical with this section. The supreme court of the state decided that the governor had the right to suspend the right to the writ and the District Court of the United States sustained the decision.

RIGHT OF PERSONS IN CASES OF IMPEACHMENT AND WHO MAY BE IMPEACHED.

ART. I, SEC. 3 (*Clause 7*). Judgment, in case of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indiet-

ART. IV, SEC. 36. All state officers and judges of the district court shall be liable to impeachment for crimes, misdemeanors and malfeasance in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust or profit, or

ment, trial, judgment, and punishment, according to law.

The president, vice-president, and all civil officers may be impeached. It has been held that a congressman is not a civil officer and not impeachable. The men and officers of the navy and army cannot be impeached but are tried for offenses by courts-martial.

to vote under the laws of this state; but such officer or judge, whether convicted or acquitted shall, nevertheless, be liable to prosecution, trial, judgment, punishment or civil action, according to law. No officer shall exercise any powers or duties of his office after notice of his impeachment is served upon him until he is acquitted.

The question of the power to impeach a member of the general assembly has never been raised. It is most probable that the opinion of the federal senate, that a legislator cannot be impeached, would be accepted. Such a power could be greatly abused for political purposes.

The governor, judges and all state officers may be impeached.

BILL OF ATTAINDER, EX POST FACTO LAW AND LAW IMPAIRING THE OBLIGATION OF CONTRACTS.

ART. I, SEC. 9. 3. No bill of attainder, or ex post facto law, shall be passed.

ART. I, SEC. 10 (*Clause I*). No state shall pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts.

The national as well as the state constitution prohibits the state from passing laws impair-

ART. IX, SEC. 19. No ex post facto law, bill of attainder, nor law impairing the obligation of contracts shall be enacted by the legislature.

In view of Article I, Section 10 of the constitution of the United States, this section (19) was wholly unnecessary, for the national constitution declares: no state shall enter into

ing the obligation of contracts, but no restriction is put upon congress. Neither congress nor the legislature can pass an ex post facto law. An ex post facto law is a statute that affects crimes that were committed before the law was passed or that makes criminal, acts that were lawful when performed. A bill of attainder is a legislative act inflicting punishment upon a person without a trial in court before a jury.

any treaty, alliance or confederation; pass any bill of attainder, ex post facto law or law impairing the obligation of contracts.

The student should discriminate between "*bill of attainder*" and "*attainder*." Attainder is the act of extinguishing one's civil rights, because of crime. In the United States, it is entirely a power of the judiciary. Art. III, 3, 2, of the national constitution places restrictions on the use of the power as follows:

The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

TITLES OF NOBILITY AND PRESENTS.

ART. I, SEC. 9, clause 8. No title of nobility shall be granted by the United States: and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, title of any kind whatever, from any king, prince, or foreign state.

The United States is prohibited from granting titles of nobility and no officer is allowed to accept of any title, office, etc., from a foreign power, but a private citizen may.

The state government is forbidden to create titles of nobility by the national constitution.

Hamilton declared this provision to be the corner stone of the republic.

RIGHT OF ACCUSED AND CHANGE OF VENUE.

ART. III, SEC. 2, clause 3.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

This does not apply to military offenders or private citizens who offend the law when the district is under military rule.

Read Section 14, Article II.

The state can not try a prisoner in any other country than the one in which the indictment was brought unless the prisoner demands that he be tried in some other county, and presents sufficient evidence to convince the judge that he, the prisoner, would not receive justice because of the prejudice of the community against him.

It is usually held that the right of a change of venue lies with the prisoner and not with the state, but Judge Medler has held that the state may ask for a change of venue from one county to another within the same judicial district. The Supreme Court has not decided the question at this writing.

RESTRICTION ON THE ABRIDGEMENT OF SUFFRAGE.

ART. XV (*Amendment XV*).

1. The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

ART. XXI, SEC. 5. This state

shall never enact any law restricting or abridging the right of suffrage on account of race, color or previous condition of servitude.

CHAPTER IV

LEGISLATIVE DEPARTMENT

THE NATION

The law enacting power of the nation is vested in the president and congress. When a bill has passed both houses of congress, it is sent to the president, who, if he approve of it, will sign and thereby make it a law. If he disapprove of it, it is returned to congress, which may, by a two-thirds vote, pass the bill over the president's veto.

The president and the senate, in the treaty-making power, enact laws without the consent of the house.

Executive duty.—The senate is given the power to approve or reject the appointments of the president. The appointment of the officers of congress has been held to be a legislative act.

The house has the sole power of impeachment. To impeach is to formally accuse one in high office. Impeach-

THE STATE

The legislative power of the state is vested in the legislature, consisting of a house of representatives and a senate and the governor.

A bill may originate in either house and when it has, in each house, received the affirmative vote of a majority of the members present, provided that a quorum is present, and has been signed by the presiding officer of both houses and the governor the bill is a law. For the exercise of the veto power see below.

The state has no treaty-making power. [See Article I, Section 10, clause 1 of the national constitution.]

Executive duty.—The senate must confirm or reject the appointments of the governor. This right gives the senators great influence with the executive.

The house has sole power of impeachment, but a majority of the members must concur therein. The governor, judges,

ment corresponds to indictment in the courts. This is purely an executive act. The court cannot try a person for crime until he is brought before it by an executive officer.

Terms, salary and qualifications.—A senator serves six years and a representative two years. Each receives \$7,500 annually and twenty cents for each mile traveled between his home and Washington. A person, to be eligible to the office of representative, must have attained the age of 25 years, and have been a citizen of the nation for seven years, and an inhabitant of the state from which he is chosen; but to be eligible to the office of senator, a person must be at least 30 years of age, and have been nine years a citizen of the nation and an inhabitant of the state by which he is elected.

Election. — Senators and representatives are elected by the people.

Apportionment.—Each state has two senators and a representative for each 212,407 persons. Each state whose population is less than the number required for a representative, is entitled to one member of the house.

and all state officers may be impeached.

A person under indictment or impeachment is innocent before the law until he is declared guilty by judicial action.

Terms, salary and qualifications.—A senator is elected for a term of four years and a representative for two years. Each member receives five dollars per day for each day he is present in legislative meetings and mileage of ten cents per mile each way. Any voter may be elected a representative, or if he has attained the age of twenty-five years, a senator, provided that he has been a resident of New Mexico for the three years next preceding his election.

Election. — Senators and representatives are elected by the people.

Apportionment. — For the election of senators there are twenty-four districts and for representatives there are thirty districts. The legislature is composed of twenty-four senators and forty-nine representatives: Senators and

There are ninety-six senators, and 435 representatives at present (1914).

After each decennial census congress apportions among the States the members of the lower house, and the state legislatures divide the states into congressional districts, always having regard for county lines.

The party in the majority usually combines counties in such a way as to give it as great a number of the representatives as possible.

Where political interests and not justice determine the form of the district, the legislature is said to have "gerrymandered"* the state. This practice originated in Virginia in 1788 when the enemies of Madison schemed, unsuccessfully, to defeat him because of his friendship for the constitution. Under the leadership of Gerry, the governor, the Massachusetts legislature redistricted the state so unjustly that out of derision the name gerrymander was given to the practice.

Vacancy.—When a vacancy

*Pronounce the "g" hard.

representatives are apportioned to the districts according to population.

When several counties appear in one district, such district is often called a float district.

Refer to Article IV of the state constitution and find what district or districts your county is in and fill the following blanks:

Name of county.....

No. of senatorial districts,

.....

No. of representative districts,

.....

Senators

.....

Representatives

.....

.....

Is your county in a float dis-

trict?

Vacancy.—When a vacancy

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occurs in either house of congress, it is the duty of the governor to call an election to fill such vacancy. In cases of vacancy in the senate the state legislature may empower the governor to make temporary appointments of a senator until the people fill the vacancy by election.

Time of meeting.—Congress meets on the first Monday in December of each year, and adjourns on March 4 of odd years and at its own discretion in even years.

Quorum.—A majority of the members of each house shall constitute a quorum, and a majority of a quorum may pass a bill. A quorum is the number of members required to transact business.

Vice-president of the United States.—The vice-president is a legislative officer with very little power. He presides over the senate and casts the deciding vote in case of a tie. Dignity is added to his office by the fact that he is first in the line of succession to the presidency. Salary, \$12,000.

Formerly the vice-president appointed the committees of the senate but that power has now been taken from him.

occurs in either house, it is filled by a special election. A person elected to fill a vacancy in either congress or the legislature serves for the unexpired term.

Time of meeting.—The legislature meets at twelve o'clock noon, on the second Tuesday in January of odd years.

Quorum.—A majority of each house constitutes a quorum for doing business. A bill must receive the votes of a majority of the members present and voting before it passes either house.

Lieutenant-governor. — The lieutenant-governor is the presiding officer of the senate *ex-officio* and as such is a legislative officer. In his absence, a president *pro tem* acts in his place. The lieutenant-governor may cast the deciding vote in case of a tie. In the absence of the governor other officers may exercise executive powers.

Salary, \$10.00 per day while acting as presiding officer of the senate. While acting as

The Speaker of the House.—With the exception of the president, the speaker was the most important officer in America until 1910. He appointed all committees and generally controlled the course of legislation. Now standing committees are elected by the house, and the speaker's importance is problematical. Yet as presiding officer of the house, he no doubt will continue to exert a great influence. Salary, \$12,000.

Judicial duties.—The senate sitting as a court, tries all cases of impeachment, and, if two-thirds of the members vote to sustain the impeachment, the person upon trial is removed from office and may be disqualified from holding any position of honor or trust in the United States.

The senators take oath as judges and two-thirds of those present must concur in a verdict or there is no conviction.

When the president is on trial the chief justice presides.

Initiative.—All bills that levy taxes shall originate in the house, but the senate may reject or amend a bill providing revenue.

Bills on all other subjects may originate in either house.

governor he receives the same salary as that of the governor.

The Speaker of the House.—The presiding officer of the house is the speaker, who is a member and has one vote on all questions before the house. Since he appoints standing committees, he exerts a most important influence on the course of legislation. He appoints many special committees. Salary, \$5.00 per day while the legislature is in session.

Judicial duties.—The senate has jurisdiction of all cases of impeachment. At the trial of the person impeached the senators are under oath to do justice, and two-thirds of the members elected to the senate must concur in a verdict or the accused stands acquitted.

When the governor or lieutenant-governor is on trial, the chief justice of the state presides.

Initiative.—Bills on any subject may originate in either house.

CHAPTER V

POWERS OF CONGRESS

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.—Article I, section 1, Constitution of the United States.

The constitutional convention provided for the legislative branch before discussing the executive branch of the government. After having made the above declaration, the convention gave the President legislative power. Congress really consists of three bodies, the Senate, the House of Representatives, and the President. The three are not coördinate in power, since the Senate and the House may pass a bill over the President's veto. Again, the President and Senate have legislative power; the constitution gives to them the power to make treaties, which the constitution declares to be a part of the supreme law of the land. The House has the exclusive right to originate revenue bills. The constitution specifies the subjects concerning which Congress may legislate.

Under the head "Congress shall have power," there are eighteen clauses specifying to what subjects the legislative power extends:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States;

but all duties, imposts and excises shall be uniform throughout the United States.

Money is absolutely necessary to the effective existence of any government. Mr. Fiske says that the organization which levies and collects taxes is the government. The absence of the power to collect taxes was the weak part in the government under the Articles of the Confederation. Of the four words, taxes, duties, imposts, and excises, the first is the most general; taxes are divided into two classes, direct and indirect. The supreme court has decided that direct taxes are of two kinds only: (a) "those on real property, and (b) capitation or poll tax." All other taxes are indirect. Duties are the taxes levied on imported goods, and excises are taxes levied on goods manufactured at home; in the United States, *internal revenue* is generally used instead of *excise*.

"The tax is levied by the consent of many; the impost is imposed by the will of one." Any tax levied by Congress upon the inhabitants of a territory or colony is an impost, since it is levied by the will of a government in which the territory has no voice.

2. To borrow on the credit of the United States:

The following amendment to the constitution was added that income taxes might be collected: "Article XVI. The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration."

In time of peace the expenditures of the govern-

ment ought not to exceed its income. Nor should its income be greatly in excess of its necessary expenditures, for the accumulation of a surplus in the treasury often leads to extravagance and sometimes to fraud. But in case of war the power to borrow money is necessary. Jefferson wanted the constitution amended so that Congress could not borrow money.

. The government has two ways of borrowing, first by issuing bonds which it sells to anyone who will buy, and, second, by issuing a paper currency which it compels its creditors to accept.

3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

The experience of the states, when each state regulated its own commerce, had led to the constitutional convention. Each discriminated against the others in matters of tariff. No wiser clause is found in the constitution. The free commercial intercourse between the states has been the cause of the material prosperity of our country.

The Indians have always been treated as a subjugated people. The government has made treaties with them as though they were foreign nations.

4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcy throughout the United States:

Naturalization is the act whereby a foreigner is made a citizen. Citizenship is not defined either by constitution or statute of the state or nation. Attorney General Bates has given the following definition:

“A citizen is a member of the body politic, bound to allegiance on the one side, and entitled to protection on the other.” Citizens are of two classes, native-born and naturalized. The children of citizens of the United States are citizens of this country, whether born at home or in some foreign land. The children of naturalized persons become citizens by the act of naturalization of their parents, provided they are not yet twenty-one and are residing in the United States. Only white people and persons of African descent or nativity can become citizens of the United States by naturalization.

To become a citizen of the United States the foreigner must declare upon oath “his purpose to become a citizen of the United States and to renounce all allegiance to any foreign prince or state.” Two years after this declaration, provided he has been a resident of the nation five years and of the state one year, he may apply for admission to citizenship, but he must renounce all allegiance to his prince or state. The President and Senate have negotiated treaties with several foreign countries for the protection of naturalized citizens and their property, but if one returns to his former country, a two years’ residence is held to be a renunciation of his naturalization.

Bankruptcy is the legal discharge from debt. While it frees a person from his financial obligations and enables him to begin business again, it does not release him from his moral obligations. Bankrupt laws are not very popular, are passed only in cases of panics, and are soon repealed. Only four bank-

rupt laws have been passed by Congress. These four laws have covered a period of eighteen years. The law which went into effect in 1898 has not yet been repealed.

5. To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures:

A uniform system of money has increased commerce between the states. In Article I, section 10, the states are forbidden to "make anything but gold and silver coin a tender in payment of debts," or to "coin money." In 1792 an act carrying out the provisions of this clause was passed. On the suggestion of Jefferson the decimal notation was adopted and the dollar became the unit. All coins less than one dollar in value are called subsidiary.

While Congress is given the power to fix the standards of weights and measures, the same power is not denied to the state, hence there is lack of uniformity.

6. To provide for the punishment of counterfeiting the securities and coin of the United States:

The penalty for making or passing counterfeit coin, bank-notes, greenbacks, bonds, etc., is a fine not exceeding \$5,000 and imprisonment not exceeding fifteen years.

7. To establish post offices and post roads:

The importance of a postal service was recognized as early as 1775, when the Continental Congress established a postal department and appointed Benjamin Franklin Postmaster General of the United

Colonies. The Articles of Confederation gave Congress real power over postal affairs.

All postmasters receiving a salary of \$1,000 or over are appointed by the President and confirmed by the Senate. All others are appointed in the postmaster general's department, and "receive the rents from boxes, and a percentage on the sale of stamps and other office receipts."

A writer in *Harper's Round Table* is responsible for the following:

"In 1658, early in the reign of Louis XIV, M. de Velaye established a private penny post. Boxes were set up at the street corners for the reception of letters. Offices were opened in various quarters of Paris; collections were made once a day from the street boxes, followed many hours later by a single delivery, and thus the first post-office in the world was established."

8. To promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

Copyrights are granted to authors, and patents to inventors. Books, pictures, charts, etc., whatever their character, can be copyrighted. The copyright gives an author exclusive right to publish his production for twenty-eight years. At the expiration of this period, the copyright may be renewed for fourteen years longer.

Any invention may be patented for a period of seventeen years, and the period may be extended

seven years by the commissioner of patents, provided the patentee has "failed to receive a suitable return for his time, ingenuity and expense."

9. To constitute tribunals inferior to the supreme court:

Congress has established the circuit and district courts, the court of claims, and the circuit court of appeals. These courts have been discussed in the chapter on judiciary.

The court-martial was established to try offenders against military law and belongs to military rather than to the civil government.

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations:

Piracy is robbery on the high seas. Felony on the high seas has never been defined by Congress.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

One of the interesting facts brought out by the Spanish-American War is that the President may veto a declaration of war. Of course, the resolution declaring war may be passed over the President's veto, but a war declared in such a manner would not be carried on very effectively, since the Commander-in-chief was opposed to it.

Marque is the boundary of a country. Letters of marque and reprisal are commissions held by citizens of one country to cross the boundary of another and seize persons and property. The word reprisal sug-

gests that the letters are granted against a country that has done some injury to the government granting the same. But acts coming under this clause are repugnant to American principles, and our nation has taken advanced grounds on privateering. The orders of the President in the last war are indicative of American feeling upon the question. They are as follows:

“In the event of hostilities between the United States and Spain, it will be the policy of this government not to resort to privateering. The government will adhere to the following rules:

“First, neutral flag covers enemies’ goods, with the exception of contraband of war;

“Second, neutral goods not contraband of war are not liable to confiscation under enemies’ flag.

“Third, blockades, in order to be binding, must be effective.”

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

Without the power to raise and support an army the power to declare war would be useless. That the army may be effective in time of war, a small standing army in time of peace is necessary. From 1866 to the late war the standing army numbered 25,000 men, but the war in the Philippines has made an increase in the number necessary. Under the advice of Hamilton, a military training school was established at West Point.

13. To provide and maintain a navy:

The navy has always been the pride of the American people and it has been much easier to build up a large and effective navy than to increase the standing army.

When George Bancroft was Secretary of the Navy he induced Congress to establish the Naval Academy at Annapolis.

14. To make rules for the government and regulation of the land and naval forces:

This clause put the army and navy under the control of civil authorities, and lessens the dangers of a standing army.

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

Since it has been the policy of the nation to have a small standing army, it was necessary to provide for some speedy method of recruiting the army with trained men when an emergency demanded immediate action. In the war with Spain the greater part of the volunteer portion of the army was recruited from the militia of the states. In the war of 1812, some of the states claimed that the militia could not be called into service of the United States until their section of the country was invaded, but in 1898 not a state made such a claim.

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers and the authority of train-

ing the militia according to the discipline prescribed by Congress:

A law passed in 1795 gave the President power to call out the militia at his own discretion. "While in actual service, the militia are paid the same as the regular troops and are subject to the same rules." Every able-bodied male citizen of the United States between the ages of 18 and 45 may be required to do military duty as a member of the militia.

17. To exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of government of the United States; and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings:

Congress exercises absolute authority over the District of Columbia. The residents have no right to vote, nor any voice in the government of the district; the President is the chief executive and Congress is the only legislative body, yet Washington is one of the best ruled cities in the world.

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof:

This clause is the virile and the most important of the eighteen clauses and has caused more discussion

than all the rest of the constitution. This clause has made political parties possible. Two words of the above clause have caused all the discussion. One class of statesmen argued that a law must be absolutely *necessary* to be constitutional, while another class held that a law which is *proper* is constitutional. Jefferson and Madison were strong advocates of the doctrine that the government could do just what the constitution said it might do, and nothing else. The constitution gave Congress power to establish post roads, but it did not say anything about building roads; therefore, with a strict construction of the constitution Congress could establish a post road over the Alleghany Mountains, but could not pay a man for "blazing" a way through the forest; again, it could establish a post road over the Rocky Mountains, but could not aid in the building of the Union Pacific. Men who have held this belief have been called "strict constructionists."

Hamilton was the author of the doctrine of implied powers. He held that the power to establish a post road carried with it the power to build the road. Those who have agreed with him have been called "loose constructionists."

These tests have been applied to every clause in this section of the constitution. But the party in power has always conducted the government on loose construction principles, while the party out of power has stood for strict construction principles, no matter what had been its previous belief.

CHAPTER VI

THE EXECUTIVE DEPARTMENT

THE UNITED STATES

The chief executive power is vested in a president.

Qualifications. — A person must be thirty-five years of age, a natural born citizen, and must have resided in the United States fourteen years (which need not immediately precede election) to be eligible to the office of president.

Election.—The president is regularly elected on the second Monday of January of every fourth year by electors previously chosen by the voters of each state.

NEW MEXICO

The supreme executive power is vested in a governor.

Qualifications.—To be eligible to the office of governor of New Mexico, one must be a citizen of the United States, thirty years of age, a voter, and have resided within the state the five years next preceding his election.

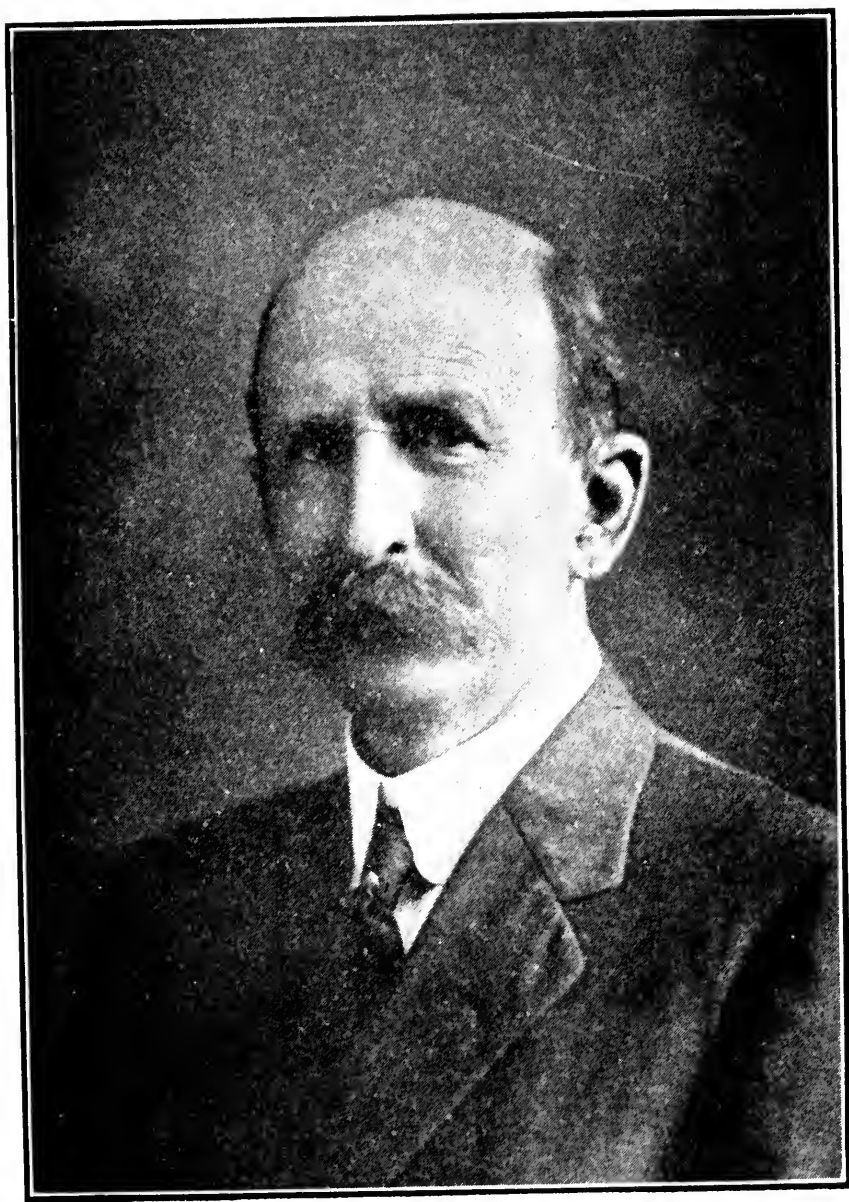
Election.—The governor of New Mexico is regularly elected by the voters of the state in leap years, on the first Tuesday after the first Monday in November.

Define majority. Distinguish between majority and plurality. Read Article XII of the Amendments to the National Constitution, to learn what occurs when the electors fail to elect a President or Vice-President. Did electors ever fail to elect a President?

PRESIDENTIAL ELECTION.

On the first Tuesday after the first Monday in November of every leap year the qualified voters of each state choose its Electors, who are charged with the duty of electing the President. The number of electors chosen by any state is determined by the total number of senators and representatives in congress from the state.

Then on the second Monday of the succeeding January the



WILLIAM C. McDONALD
Governor of New Mexico



electors of each state meet at their respective state capitols, usually in the office of the Secretary of State, and vote for president and for vice-president.

When they have voted for president, the electors count the votes and declare the result. Then they vote for vice-president, count the votes and declare the result.

A certificate certifying that the electors have met, and cast their votes, with the result thereof, is made out, signed and sealed in triplicate; one copy is forwarded by mail to the presiding officer of the senate and the other copy is carried to the same officer by a messenger chosen from the electors and the third copy is filed with the nearest district court of the United States.

When these certificates are received at Washington, they are placed in a safe in the private office of the president of the senate, where they remain until the second Wednesday of February, when they are opened in the presence of both houses of congress, in the hall of representatives, at one o'clock in the afternoon. The president of the senate presides at this meeting. Each house has previously chosen two tellers to take charge of the certificates, to read them and to tabulate the result, which is declared by the presiding officer.

If there is no contest this ends the proceedings of the joint session. The president is not formally notified of his election.

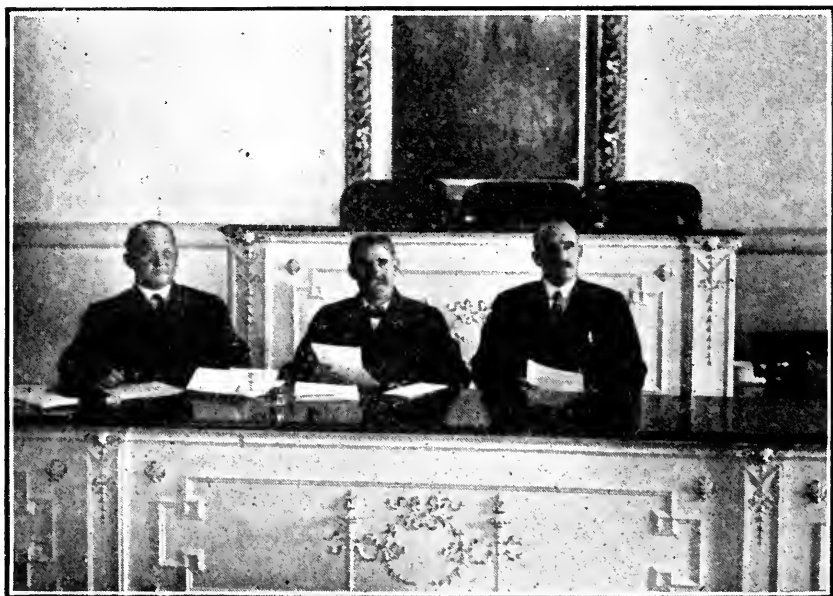
NEW MEXICO VOTING FOR PRESIDENT.

On January 13, 1913, the Honorable E. C. de Baca, Las Vegas, the Honorable S. D. Stennis, Jr., Carlsbad, and the Honorable J. H. Latham, Lake Valley, presidential electors for New Mexico, met in the senate chamber at Santa Fe to cast the vote of the state for president and for vice-president.

The Honorable Antonio Lucero, secretary of state, administered the oath of office required of all state officers. The Honorable E. C. de Baca stated the purpose of the meeting and then the three men proceeded to cast their votes for president. After announcing the result, the electors voted for vice-president and announced the result.

Then three copies of a certificate were made, certifying that "three votes have been cast for Woodrow Wilson for president" and "three votes have been cast for Thomas R. Marshall for vice-president."

One copy of this certificate was mailed by the secretary of state to the president of the senate. One copy was carried to the same officer by Mr. Stennis, as messenger, and the third



S. D. STENNIS, JR., E. C. DE BACA, J. H. LATHAM
New Mexico Voting for President

copy was deposited with W. H. Pope, Judge of the District Court of the United States.

The Governor and other state officers and many citizens from all parts of the state were present during the meeting of the electors.

METHOD OF CHOOSING ELECTORS.

There was no uniformity in the method of choosing electors at the first presidential election. In five states: Connecticut, Delaware, Georgia, New Jersey, South Carolina, the electors

were chosen by the legislatures. Virginia was divided into twelve districts and the people of each district chose one elector. Massachusetts was divided into congressional districts and the people, at the regular election, voted for candidates for electors, and the legislature (the General Court) chose the electors from the two persons in each district having the greatest number of votes; and two electors at large were chosen in like number. In Delaware the people elected, at large, on a general ticket, five electors. In New Hampshire none of the candidates received, as required by state law, a majority of the popular vote, hence the legislature chose the electors. New York's legislature became involved in a quarrel that resulted in a deadlock and electors were not chosen. North Carolina and Rhode Island had not yet ratified the constitution.

In the early days of the republic, North Carolina and Tennessee seemed to have followed the most unique methods of choosing electors. In 1792 the legislature of North Carolina divided the state into four districts and directed the members of the legislature residing in each district to meet and choose three electors. In 1796 the legislature of Tennessee divided the state into three districts and appointed by name certain men in each district to choose the electors for their district.

By 1836, the choice of electors from districts was discontinued, to be revived by Michigan in 1892, but the law was repealed before the election of 1896, since then the electors for every state are elected on a general ticket.

In the beginning, in a large number of the states, the legislature chose the electors; but in the election of 1824, in all the states except North Carolina, the people chose the electors; North Carolina continued to choose her electors by vote of the legislature until 1860. After 1824 a state occasionally followed the same method, but Colorado, in 1876, was the last state in which the legislature chose the electors.

NOTES.

These statements are made in answer to questions asked by intelligent men and women of New Mexico:

The votes are not sent to Washington. They are in the possession of the writer of this book.

The electors do not go to Washington to vote.

The electors are not officers of the nation but are state officers, paid by the state.

If they are guilty of fraud they may be punished by the state, but not by the nation.

The president is not elected in November.

Only three men, in New Mexico, voted for president.

*I Hereby vote for Woodrow Wilson for President
of the United States of America.*

JANUARY 13, 1913.

E. C. O'Brien
Electors From New Mexico

*I Hereby vote for Woodrow Wilson for President
of the United States of America.*

JANUARY 13, 1913.

S. D. Stennis Jr.
Electors From New Mexico

*I Hereby vote for Woodrow Wilson for President
of the United States of America.*

JANUARY 13, 1913.

J. N. Latham
Electors From New Mexico

The Votes Cast for President by New Mexico's Electors

These electors received no compensation for their services as electors. Mr. Stennis received, from the government of the United States, mileage as messenger.

Term of office.—The president is inaugurated at noon the fourth of March next succeeding his election and serves four years, his term ending at noon, March fourth, whether his successor has been chosen or not. Salary, \$75,000. For the care of the White House, \$50,000. For traveling expenses, \$25,000.

The executive duties and powers.—The president is commander-in-chief of the army and navy and of the state militias when they are in the service of the United States. During the times of peace, the president must be guided by the ordinary or civil law, but in times of war, military necessity is almost the only law restraining the president. With the advice and consent of the senate, he appoints his cabinet, the ambassadors, ministers, and all other foreign representatives of the government, and the judges of the Federal courts, the important postmasters, and many other officers. He has power to grant reprieves and pardons before and after

Term of office.—The governor holds office four years from the first of January next after his election and until his successor is elected and qualified. Salary, \$5,000. Contingent expenses, \$5,000. The governor forfeits his salary while absent from the state or disqualified from performing his duties, to the one who performs the duties of the office during his absence or disqualification.

The executive duties and powers.—The governor is commander-in-chief of the militia when it is not in the service of the national government. He may use the militia in executing the law or in suppressing insurrection. He appoints with and by the consent of the senate many of the non-elective executive officers of the state. He is authorized to fill vacancies in all elective state offices except lieutenant-governor and such appointees shall hold until the next general election, when their successors are chosen; in like manner he fills vacancies in the offices of the judges of the supreme and district courts, and district attorney and county commissioners;

conviction, and even before arrest, except in case of impeachment. (Look up the Amnesty proclamation in your history.)

and when the district court suspends or removes an officer, is authorized to fill the vacancy. He grants reprieves, commutations and pardons after conviction for all offenses except for treason and in cases of impeachment.

The act of appointment to important offices consists of three steps: nomination, confirmation, and commission. In minor offices, the act of confirmation is usually omitted.

The executive department nominates and commissions.

The Senate confirms. In case it fails to confirm, a nominee fails of appointment.

To reprieve is to postpone the execution of a penalty fixed by a court.

To commute is to change, to lessen, the penalty.

To pardon is to release from the penalty.

On extraordinary occasions, he may convene congress and may also prorogue it when the two houses of congress are unable to agree on the date of adjournment.

On extraordinary occasions, he may convene the legislature but is not given the authority to prorogue it.

To *convene*, to *prorogue*, to *dissolve* a legislative body are executive powers.

To *convene* a legislative body is to call it into session.

To *prorogue* it is to adjourn it.

To *dissolve* it is to terminate the terms of its members.

At present the executive of state or nation has no power to dissolve a legislative body, but during colonial times this power was frequently exercised by colonial governors.

He addresses congress by means of a message at the beginning of every session and at other times, on the condition and needs of the nation, and on foreign relations of the United States.

Legislative powers and duties.—When a bill has passed both houses of congress it is sent to the president for his consideration. If he approve of the measure he signs the bill, which then becomes a law. But if he does not favor the bill he vetoes it; that is, he returns it without his signature to the house in which it originated, together with his objections. Or if he retain the bill more than ten days it becomes a law without his signature, provided that congress remains in session during the ten days. This is a "pocket approval."

The executive in neither state nor nation has the right to veto a proposed constitutional amendment. When the president disapproves a bill and returns it to the house in

He sends messages to the legislature advising the members of the needs of the state. He is an important member of many boards, such as the board of equalization.

Legislative powers and duties.—When both houses of the legislature have passed a bill, it is then sent to the governor. The governor may have three days in which to consider the bill. If he approve of it, he signs it; but if he disapprove of it, he returns it to the house in which it originated, with his objections and without his signature. If each house repass the bill by a two-thirds majority of those present and voting, provided a quorum is present, the bill becomes a law without the governor's signature. If he retains the bill more than three days, it becomes a law without his signature. A bill presented to the governor during the last three days of the session shall be approved and signed

which it originated, it may by a two-thirds vote of each house, provided a quorum is present, be passed over his veto. Speaker Cannon says: "It is the general understanding that the president may not sign or veto a bill after the expiration of a congress or after a final adjournment of a session (excepting adjournment for a recess like the holiday recess).

In treaty-making the president, through the secretary of state, formulates a treaty, which, when ratified by two-thirds of the senators present when these constitute a quorum, becomes a law of the land.

Congress has authorized the president, or members of his cabinet, to make rules and regulations that have all the force of law.

by him within six days after the adjournment of the legislature or such bill does not become a law.

When the thirteen colonies emerged into statehood, they remembered the tyrannical use of power exercised by the royal governors and as a consequence limited the powers of their governors to a great extent. Only two states, Massachusetts and New York, gave the veto power to the governor. Now every state except North Carolina has established the veto power. In large bodies it is difficult to place the responsibility for vicious legislation, but the governor, who is elected by the whole people, cannot shift responsibility for signing bad laws enacted during his incumbency in office.

The president must approve or disapprove the entire bill. This permits "riders" to important bills which compels the president to approve of objectionable matter that the more important features of the bill may become law.

Judicial duty and power.—When a court-martial has tried an offender against the military or naval law, it is the president's duty to review and approve or disapprove the findings of the court. This is purely a judicial act. After approval he may use executive clemency and pardon the offender or commute the sentence.

Order of succession.—In case of the removal, death, resignation, or permanent inability of the president, the vice-president assumes the title, salary, powers and duties of the president, thus creating a vacancy in the office of vice-president, to which no one succeeds.

In case of the death, removal, resignation or inability of both president and vice-president, there is no order of succession to the presiden-

The governor may veto any item or items of any bill making appropriations of money.

Judicial duty and power.—When a member of the militia violates the military laws of the state he is tried by a court-martial, and the governor must approve or disapprove the findings of the court. As in the case of the president, he may use his executive power after he has exercised his judicial power.

Order of succession.—In case of the death, impeachment, resignation or other disability, as absence from the state, of the governor, the powers, duties and emoluments of the office devolve upon the lieutenant-governor for the residue of the term, or until the governor returns to the state or other disability is removed.

In case of the death, resignation, absence from the state or other disability of both the governor and lieutenant-governor, the secretary

cy, but a member of the cabinet acts as president until the disability of the president or vice-president is removed or until a president is elected. The right to act as president devolves upon certain members of the cabinet in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney-General, Postmaster-General, Secretary of Navy, Secretary of the Interior.

A cabinet officer cannot assume the duties of president unless he has been confirmed by the senate and is eligible to the office of president under the constitution. In case a cabinet officer who is acting as president resigns his cabinet office, he forfeits his right to perform the duties of the office of president. A cabinet officer acting as president would probably receive the president's salary.

The law provides that congress shall be in session twenty days after a member of the cabinet assumes the duties of president. Congress may then proceed to provide for the election of a new president, or permit the acting-president to complete the unexpired vacancy.

of state shall act as governor, during such disability or absence from the state. If there be no secretary of state, or if the secretary be absent from the state, or unable to perform the duties of his office, the president *pro tempore* of the senate shall in like manner act as governor. In case of a vacancy in the office of governor, the lieutenant-governor succeeds to that office, leaving a vacancy in the office of lieutenant-governor, to which there is no succession. Whoever performs the duties of the office of governor receives the governor's salary.

Secretary of state.—This office was the result of a gradual evolution. November, 1775, the Continental Congress appointed a “Committee of Secret Correspondence” which was essentially a committee on foreign affairs. In 1777 this committee was changed to the “Committee of Foreign Affairs,” with Thomas Paine as its first Secretary. In 1781 the Department of Foreign Affairs was created and Robert R. Livingston was appointed Secretary of Foreign Affairs. John Jay succeeded him and continued in office until 1789, when the name of the department was changed to the Department of State and the secretary was styled the Secretary of State. Jay served as Secretary of State until March 22, 1790, when Jefferson succeeded him.

The secretary has charge of the great seal of the nation, the engrossed copies of all laws and the original copies of treaties. Under the direction of the president he conducts all foreign correspondence and has general supervision of the diplomatic corps.

Salary, \$12,000.

Secretary of state.—He must be thirty years of age and must have lived in the state for the five years next preceding his election and possess all the qualifications of a voter. He has charge of the original copies of all laws, which he publishes and distributes to the proper officers throughout the state. He conducts all official correspondence with other states and with the United States.

The secretary has general supervision over all state elections and exercises judicial powers in certain matters pertaining thereto. He may make rules that have the force of law, in regard to the questions of procedure in his office. He is custodian of all public documents of the state.

The great seal of the state is in his custody. He is not eligible to be his own immediate successor.

Term, four years.

His salary is \$3,000.

Secretary of the treasury.—

Early in 1775 the continental congress took steps towards forming a treasury department. Treasurers were appointed with a committee of congress to superintend their work. The first of April, 1776, a treasury office of accounts was established with an auditor-general in charge. After various changes, the new government established, September 22, 1789, the department of the treasury, with a secretary of the treasury in charge. Alexander Hamilton was appointed secretary.

The secretary has general supervision of the finances of the government. He issues warrants on the treasurer, on the order of congress, to pay the debts of the government.

Because of his relation to the finances and taxes, the secretary has always been a very important officer. Robert Morris, Hamilton, Gallatin, Chase and Sherman have generally been ranked as the great financiers and secretaries. The duties performed by the secretary of the treasury and his subordinates are, in the state, performed by the state auditor, traveling auditor and state treasurer.

Auditor of state.—The auditor must be a voter, at least thirty years of age, and a resident of the state the five years next preceding his election. He is the general accountant of the state. He audits (this is a judicial duty) and settles most of the accounts against the state and draws warrants upon the state treasurer when directed by law to do so. He is not eligible to be his own immediate successor. Salary, \$3,000. Term, four years.

The traveling auditor and bank examiner has supervision of the books of all state officers and officers of the state institutions, counties, banks and other moneyed institutions; and must make an examination of the financial accounts of such officers. Salary, \$3,000. Term, four years.

State treasurer.—The treasurer must possess the qualifications required of the secretary of state and the auditor. He is not eligible to be his own immediate successor. The treasurer has charge of certain moneys belonging to the state and disburses the same upon the order of the auditor.

Salary, \$3,000. Term, four years.

Secretary of war.—He has charge of the affairs of the army under direction of the president.

He superintends the purchase and distribution of supplies and military stores.

All river and lake improvements are under his direction. For convenience his department is divided into ten bureaus, each having its special duty.

The Board of Engineers for rivers and harbors is under the control of the secretary.

Attorney-general.—It is his duty to give legal advice to the president and the heads of the departments.

There are a number of assistants in this department who aid in the prosecution of all cases before the supreme court or the court of claims to which the United States is a party.

Postmaster-general. — He has general supervision of the mail.

Secretary of the navy.—Under the direction of the president, the secretary of the navy has charge of all naval affairs.

Adjutant-general.—He has charge of the militia under the charge of the governor. He has the rank of brigadier-general and is chief of staff. He issues all orders from the commander-in-chief, and also serves as quartermaster-general, commissary general and inspector general, in time of peace.

Salary, \$2,400.

State Engineer.—This officer has general direction over all bridge and road building and waterways of the state.

Attorney-general.—He is the legal advisor of all state officials and district attorneys of the several districts. He represents the state in all cases before the supreme court to which the state is a party.

He holds office four years and receives \$4,000 annually.

Secretary of the interior.—

This department issues patents, takes the census, and looks after public lands and interior affairs. It has general supervision over the commissioner of patents; pensions; land office; Indian affairs; education; geological survey; reclamation service, and the bureau of mines.

One of the greatest works of the government, the conservation of national resources, is under the immediate control of this department. This work extends to conservation of public lands; soil; mineral resources; forests; water power and waterways. The almost criminal waste of the great natural resources of the country has made this line of work imperative.

The secretary of the interior is the last officer named in the statute authorizing cabinet officers to act as president in the case of the death or disability of both president and vice-president.

Commissioner of education.

—He is an officer of the department of the interior. He gathers statistics concerning

Land commissioner.—The commissioner of public lands shall select, locate, classify and have the direction, control, care and disposition of all public lands subject to the acts of congress and the provisions of state law. He may be his own immediate successor. Salary, \$3,000.

All salaries and expenses of the state land offices are paid from a fund derived from setting aside twenty per centum of the income received from state lands.

State Board of Equalization.—This board consists of the governor, traveling auditor, state auditor, secretary of state, and attorney general. It determines the value, for the purposes of taxation, of railroad property, express, sleeping car, telegraph, telephone, and other transportation or transmission companies, certifying to the value thereof to the county and municipal taxing authorities. It also equalizes the taxes between the various counties for the purposes of state taxation.

Superintendent of public instruction.—He is the chief executive officer of the public school system and an ex-

the progress of education and publishes reports that are helpful to teachers.

Pension bureau.—This bureau is under the immediate control of the commissioner of pensions. Since the beginning of the civil war this department has paid to invalid soldiers of that conflict \$4,129,699,071.99, an amount four times that of the public debt. This bureau has vast interests to superintend.

Secretary of agriculture.—This officer's duty is stated in the law as follows: "To diffuse among the people useful information on subjects connected with agriculture."

Secretary of commerce.—This officer has under his supervision a number of bureaus, among which are the following: bureau of the census, bureau of corporations, bureau of foreign and domes-

officio member of the state board of education, whose rules he enforces. He has general supervision over the school affairs of the state and interprets all school laws. He is eligible to be his own immediate successor.

Salary, \$3,000. Term, four years.

State Board of Education.—This board has control, management, and direction of all public schools under such regulation as may be provided by law. Its duties are largely legislative and judicial. Its rules and decisions are executed by the superintendent of public instruction and his subordinates.

New Mexico has a number of boards such as the cattle sanitary board, sheep sanitary board, etc., that have to do with questions of farm and ranch life and perform part of the duties that are performed in the national department of agriculture.

Corporation commission.—Three members compose this commission, one of which is chosen chairman. It issues articles of incorporation, has general supervision over all corporate bodies within the

100 NATIONAL AND NEW MEXICO CONSTITUTIONS

tic commerce. The work of the last-named bureau is of great importance in building up our foreign trade. At the request of the president or congress it may also investigate industrial conditions at home and abroad and their relation to cost of living, wages, etc.

This department, as a part of the department of commerce and labor, was created in 1903, and remained thus until 1913, when the labor organizations secured legislation separating the departments.

Secretary of labor.—In 1903 a separate department of commerce and labor was created by joining a number of bureaus with the bureau of labor. In 1913 the department of labor was established. This department now has control of the bureaus of immigration, naturalization, labor statistics and children's bureau. It supervises immigration, enforcing laws relating to same, and to the Chinese exclusion act; gathers and publishes information regarding labor interests, conditions, disputes, etc., in this and other countries; supervises the

state, and supervises and regulates charges and rates of all public service companies.

Salary of each, \$3,000.

carrying out of congressional acts regulating payment for injuries among artisans and laborers received while employed; and supervises child labor and naturalization laws. Whenever the interests of the country demand it, the secretary of labor may act as mediator in labor disputes or choose a commission to do so.

CHAPTER VII

JUDICIAL DEPARTMENT

The following statements about the judicial, executive and legislative power of the courts hold for either state or nation.

Judicial Duty.—It is the duty of the court to apply the law, to declare it void when it is not in harmony with the constitution, to declare what is the law, and to interpret the law.

Executive Duty.—The court is allowed to appoint some of its executive officers, the clerk, court reporter, etc.

Legislative Duty.—The accepted theory is, that the courts have no legislative power.

Professor Ely, in his "Socialism and Social Reforms," has called attention to the result of the modern tendency to enlarge our constitutions unduly, "the result * * * has been to enlarge unduly the functions of the judiciary;" "and it is unfortunate for society to entrust to judges what are, in reality, legislative functions." The provisions are more or less general and the judges must say what they mean in special cases, and then apply them according to their own judgment.

In discussing the common law, Walker says: "Theorize as we may, it has been made from first to last by judges." "It is the stupendous work of

judicial legislation.” He supposes a case presented to the court for which there is no law, either statutory or common, and no case analogous to it can be found. The judge “must either let a wrong go undressed, or make a law to meet the exigency.”

The great body of law is not found in statutes and constitutions but in the reports of judicial decisions.

Judicial power is vested in the senate, acting as a high court to try cases of impeachment, in the supreme court and inferior courts formed by congress, and in court martial.

The supreme court is provided for by the constitution, but congress has established the inferior courts.

Jurisdiction.—Jurisdiction is the right or power of a court to hear causes and execute justice. The jurisdiction of a court is the limitation put upon it by the constitution or statutes, and extends to persons, places, and causes. Jurisdiction is of two kinds—appellate and original. The court in which a cause must originate is said to have original jurisdiction. The court that may review a cause decided by a lower court has appellate jurisdiction. When an appeal cannot be taken from the decision of the court, it is said to have final jurisdiction. When two courts have jurisdiction over the same causes, they are said to have concurrent jurisdiction. Either the statutes or the constitution specifies what is the extent and kind of jurisdiction that the different courts may exercise.

In the common law practice of the courts there are two ways of transferring a case to a court of appellate jurisdiction, by appeal and by a writ of error. When a case is appealed, the court having appellate jurisdiction tries the whole case without reference to the proceedings of the former court. And when a case is taken to a higher court upon writ of error, the higher court has jurisdiction of questions of law and procedure only. In New Mexico the result is the same whether the case is appealed or carried up on writ of error.

Judicial power of New Mexico is vested in the senate, in a supreme court, district court, courts of justices of the peace, and in such other inferior courts as may be established by the legislature.

Senate of nation.—The senate tries all cases of impeachment. When the senate is sitting as a court the members are on oath to do justice. The concurrence of two-thirds of a quorum present and voting is required to convict. One president and several judges have been impeached, but the senate failed to sustain the impeachment of the president.

Supreme court.—The supreme court is composed of a chief justice and eight associate justices, appointed by the president, to serve during good behavior. The chief jus-

Senate of state.—The senate has exclusive jurisdiction of all cases of impeachment. The senators when sitting as judges are on oath or affirmation to do justice. The concurrence of two-thirds of the senators elected is required to convict.

Supreme court.—Three justices elected by the people constitute the supreme court.

The term of office is eight years and salary is \$6,000. The judge whose term first ex-

tice receives \$15,000 and associate justices each \$14,500.

Chief justices of the United States.—John Jay served 5 years, John Rutledge served 3 months, Oliver Ellsworth served 3 years, John Marshall served 35 years, Roger B. Taney served 28 years, Salmon P. Chase served 9 years, Morrison R. Waite served 13 years, Melville W. Fuller served 24 years, Edward D. White, the present chief justice, has served since 1910.

Executive duty.—The court appoints its clerk, reporter and marshal, who are the executive officers of the court.

Jurisdiction.—The supreme court has original jurisdiction of all cases that affect ambassadors and other foreign representatives and of cases to which a state is a party.

It has appellate jurisdiction in all cases involving the jurisdiction of a lower court, infamous crimes, the construction of the national constitution, the constitutionality of a law of congress or of a state, and the meaning of a treaty.

pires is chief justice, provided that he has been elected for the full term of eight years.

No person shall be eligible to the office of supreme judge unless he be a lawyer and have practiced at least three years, including whatever time he may have served as judge of an inferior court. He must be at least thirty years of age, a citizen of the United States and must have been a resident of this state for at least three years.

Executive duty.—The judges appoint a reporter, a bailiff and a clerk, who act as executive officers of the court.

Jurisdiction.—The supreme court has original jurisdiction of all cases of quo-warranto and mandamus as to all state officers, and in habeas corpus. A quo-warranto is a writ from the court requiring an officer to show by what authority he holds office, or requiring a corporation to show by what right it exercises certain powers. Mandamus is a writ commanding an inferior court or other officer or corporation to perform certain acts.

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Judicial circuits. — The United States is divided into nine circuits. There are twenty-nine circuit judges,—four each in circuits two, seven and eight; two in circuit four, and three in each of the remaining circuits, and five additional circuit judges that were appointed to hold the court of commerce. Since it has been practically eliminated these judges have been assigned to duty in the circuit court of appeals.

The supreme court allots one of the supreme court justices to each circuit; in reference to his circuit duties he is called circuit justice; while the other members of the court are called circuit judges. A district judge may act as a circuit judge. Court may be held by any two of the judges. In the absence of the circuit justice or the circuit judges, district judges may hold the court.

The *circuit court*, which was created in the early days of the republic, was abolished by the judicial code of 1912 and its duties and powers were transferred to the district courts. (This was a court of original jurisdiction.)

The appellate jurisdiction of the supreme court extends to all questions decided by the district courts.

The *circuit court of appeals* hears appeals from the district courts. It may review the decisions of these courts that are not reviewed by the supreme court, and in many cases its decisions are final; as in patent, revenue and criminal cases. Each court has three judges, any two of whom constitute a quorum. The circuit judges and the district judges of any circuit are competent to sit in this court. But the district judge can sit only in the absence of one or more of the other judges. The salary of a circuit judge is \$7,000.

*District Courts.**—The judicial code of 1912 provides for seventy-five district courts and eighty-six judges. The salary of the district judge is \$6,000. These courts have original jurisdiction over all cases that may arise under the constitution, laws and treaties of the United States. Their appellate jurisdiction is limited to decisions of court commissioners in cases arising under the “Chinese Exclusion Act” and

District courts.—The state is divided into eight districts and one judge is elected in each district, except the fifth, which has two judges. A district judge must possess the same qualifications as a judge of the supreme court. Salary, \$4,500.

These courts have jurisdiction of all cases not given to some other court, and appellate jurisdiction of all cases decided in the inferior courts

* In 1789 congress passed a law organizing inferior courts. While it established the circuit and district courts, it provided for only two sets of judges,—judges of the supreme and district courts. The circuit court was held by a supreme and a district judge.

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the "Yellowstone National Park Act."

Commissioner.—To lighten the burdens of the courts and bring justice closer to the people, congress has provided commissioners who correspond to justices of the peace in the states.

Accused persons are taken before a commissioner, who determines whether the prisoner shall be held for the United States grand jury.

They are appointed by the district judge, who may appoint as many commissioners as his judgment dictates. Their jurisdiction extends to the state in which they live. They receive fees for their services.

Other courts.—The creditors of the nation cannot sue it, but congress has established a court of claims to try certain claims against the United States. When this court determines the government owes the amount, congress must appropriate the amount of the claim before it can be paid.

A special court has been formed for the District of Columbia and each territory has a system of courts.

within their several districts.

Justice of the peace.—This officer presides over a county court. This court has concurrent jurisdiction with the district court in all civil cases when the amount does not exceed \$200. He has jurisdiction over all offenders against the law, and can require them to be brought into his court. In cases less than felony where the penalty does not exceed \$100 fine or six months imprisonment, he may make final disposition of the case, but in the more important cases, if satisfied of the prisoner's guilt, he commits him to jail or releases him on bail to await the meeting of district court.

Other courts.—Municipal courts are established in every incorporated city or town, with jurisdiction over offenses against the ordinances of the municipality. The council may designate one justice of the peace to be magistrate. The mayor with the consent of the council appoints the judge, who is called police magistrate.

Court of customs appeals.

—It was established in 1909, and consists of a presiding judge and four associate judges. Any three members constitute a quorum. This court is always open for business. Its sessions may be held in the judicial circuits or any place the court may designate.

This court has exclusive appellate jurisdiction over the decisions of the Board of United States General Appraisers and over all appealable questions as to the collection of the customs revenues, its decisions being final. Salary, \$7,000.

Commerce court.—Provided for in 1910. According to Chief Justice White it was intended to be but part of a system for the regulation of interstate commerce, to make this work more efficient. This court was in action for a brief time, but was practically abolished by the appropriation act of August 23, 1912, which limited its appropriation until March, 1913. The court cannot resume its duties until there is further legislation.

Executive officers.—The executive officers of the different courts are the marshal, the clerk, and the court reporters. The marshal serves the writs and subpoenas and brings criminals into court; the marshal of the circuit and district courts is appointed by the president.

The clerk, who is appointed by the court, keeps a record of all cases brought before the court and the disposition made of the same. The court reporter is appointed by the court. It is his duty to report and publish the decisions of the court.

Executive officers.—The chief executive officers of the courts are sheriff, clerk, reporter, bailiff, and constable. The duties of these officers will be given in the following pages. The reporter and clerk of the supreme court are appointed by the court; but the sheriff, clerk of district court, and constable are elected.

CHAPTER VIII

DISTRICT, MUNICIPAL, AND PRECINCT OFFICERS

District Attorney.—There is no prosecuting attorney among the county officers of New Mexico, but the district attorney is the law officer of the state and of counties within his district. There are eight judicial districts in the state, each presided over by a district judge and a district attorney. The district attorney must be learned in the law, and must have been a resident of New Mexico for the three years next preceding his election, and must be a resident of the district for which he is elected. If necessary, the legislature may provide for additional district judges and attorneys for judicial districts. At present there are eight district attorneys, seven receiving a salary of \$3,000; one, a salary of \$2,750. The state pays \$1,000, the balance being contributed by the counties. Term, four years.

The County.—The county is the political unit of the state, created by the legislature to facilitate state government.

The county is a miniature state, exercising all the powers of government. The right to perform these powers has been delegated to the counties by the legislature. In form of government it is a delegated, limited oligarchy, the county commissioners being the real rulers. But in spirit the county is a

very democratic institution and comes nearest being self-government.

For determining salaries of the county officers the legislature divides the counties into classes, according to the taxable property in the county, or according to the amount of labor required of the county officers.

COUNTY OFFICERS

County Commissioners.—In each county there are elected three commissioners, who exercise executive, legislative and judicial duties. They are all elected at once and serve four years. Salary ———

Legislative Duty.—The commissioners levy taxes and determine how the money shall be spent. They order roads to be constructed and bridges and buildings to be built. The legislature has delegated to the county commissioners power to legislate in many matters of local interest.

Executive Duty.—The commissioners fill any vacancy that may exist in the other county offices, if that vacancy is the result of resignation or death or failure to qualify.

They oversee public improvements and appoint certain persons to take care of public property, examine and compare the accounts of county clerks and treasurers.

A vacancy in the office of county commissioner is filled by the governor.

Judicial Duty.—The county commissioners must try every account against the county except in cases where the amount is fixed by law or determined by

some other officer. The proceedings of the board are in many respects those of a court of special and inferior jurisdictions.

Clerk.—The county clerk acts as the clerk of the board of commissioners. He issues and keeps a record of all licenses. He issues warrants on the county treasurer, but such warrants must be signed by the chairman of the board of commissioners and countersigned by the clerk.

Deeds and mortgages are recorded in his office.

He is the official clerk of the district court and keeps a record of all cases commenced in the court, issues all writs and summons, and records all judgments. When the county clerk acts *ex officio* as clerk of the court he receives no extra compensation. Term, four years.

Surveyor.—The surveyor makes all surveys for the county and is required to keep in his office a plat and record of all official surveys made by him. Term, four years.

Superintendent of Schools.—He is the chief school officer of the county and has supervision of all schools in the county outside of incorporated cities, towns and villages, subject to the rules and regulations of the State Board of Education. He must make report of the condition of the schools in his respective county to the superintendent of public instruction. He apportions the school funds to the various districts in his county and approves all expenditures of district funds. This officer is elected for four years and is ineligible to succeed himself.

Sheriff.—It is the sheriff's duty to preserve the peace, to serve and execute all processes, writs, precepts and orders issued by any court of record in his county. He holds office four years.

Treasurer.—The treasurer has charge of the county funds, which he pays out on the order of the county commissioners, as certified by the clerk. He collects the taxes and keeps account of all receipts and expenditures. Term, four years.

Assessor.—The assessor makes a list of all taxable property at its full value, unless a minimum limit has been put upon the valuation by the state board of equalization, and reports to the county commissioners. Term, four years.

Coroner.—New Mexico has no coroner, but the justice of the peace performs the duty of coroner. When it may appear that a death has been caused by violence or other unlawful means, it is the duty of the justice of the precinct in which it happens to summons a jury of six men to inquire into the cause of the death. Their verdict must be filed with the probate judge. In the absence of the justice of the precinct, any other justice of the county may act.

Probate Judge.—The probate judge has charge of the settling of the estates of deceased persons and the appointing of guardians and administrators to manage the persons and estates of minors and lunatics. Disputed claims and legal questions may be decided by the probate judge assisted by a jury of six men of his choosing, which decision may be appealed.

The legislature is authorized to confer upon the probate court of any county general civil jurisdiction co-extensive with the county. The legislature has not yet conferred this jurisdiction (1914).

No county officer except the clerk and probate judge can succeed himself, provided he has served a full term of four years.

PRECINCT OFFICERS

Justice of the Peace.—The county commissioners determine the number of justices to be elected in their respective counties. This officer receives no salary but is paid by fees determined by the legislature.

Constable.—The constable holds the same relation to the justice's court that the sheriff holds to the district court.

The foregoing precinct officers are elected in odd years to serve for two years. The election takes place the second Monday in January of every other year, the officers qualifying the first Monday in February.

OFFICERS OF TOWNS AND CITIES

All legislative power of the state is vested in the state government. Frequently the needs of a certain part of the state become so various and complex because of its increasing business and population that the legislature incorporates it as a city or town; that is, gives it a government with power to legislate upon questions of local importance, and power to execute the laws. This government can exercise

delegated power only, and the state may change or abolish it altogether.

In the cities and towns of this state the elective officers are the mayor, council, city clerk, and treasurer. The mayor nominates the appointive officers and the council may accept or reject.

Mayor.—The mayor is the chief executive officer of the city or town. He presides at the meetings of the town council and has a vote in case of a tie. He also has a veto power. In three days after a legislative act has passed the council he may disapprove the same, but the act may be passed over his veto by a two-thirds majority.

In case of a vacancy in his office the council may order a special election as soon as practicable to fill vacancy.

Council.—The council is the legislative branch of municipal government. It has the power to levy taxes and appropriate money for the improvement of streets and for other purposes that pertain to the general welfare. It has power to remit fines.

Clerk.—The clerk has custody of all laws and ordinances and acts as secretary to the council. He issues all warrants on the treasury.

Marshal.—The marshal has control of the police and makes arrests for disturbances of the peace. He is the chief officer to execute orders of the police magistrate.

Treasurer.—The treasurer has charge of all moneys belonging to the corporation. He receives and takes care of moneys belonging to the city.

SCHOOLS

Boards of Education.—In cities and incorporated towns the school boards are composed of five members who serve for a period of four years. In all unincorporated territory the schools are under the direction of three directors who serve for a period of three years.

Legislative Duty.—The board has power to levy taxes for the support of the schools and to adopt a course of study and to make rules for the government of the school. It determines the number of teachers to be employed, etc.

Executive Duty.—The board selects sites for school-houses, purchases apparatus, fuel, etc.

Judicial Duty.—The board investigates the conduct of the teacher and determines whether he has exceeded his authority or failed to do his duty. The board may expel or suspend a pupil after hearing testimony for and against him.

Officers of the Board.—The board elects a treasurer, a secretary, and a chairman.

The pupil should investigate the duties of these officers and fill the following blanks:

Chairman.—

Secretary.—

Treasurer.—

CITY OFFICERS

Mayor

Salary.....

Councilmen	{	.....
	
	
	
	
	
	
	

Salary.....

Clerk

Salary.....

Treasurer

Salary.....

Marshal

Salary.....

COUNTY OFFICERS

Commissioners	{	.....
	
	
Salary		.....
Clerk		.....
Salary		.....
Sheriff		.....
Salary		.....
Surveyor		.....
Salary		.....
Superintendent of Schools		.....
Salary		.....
Treasurer		.....
Salary		.....
Assessor		.....
Salary		.....
Probate Judge		.....
Salary		.....
Justice of the Peace		.....
Salary		.....
Constable		.....
Salary		.....

THE TEACHER

Duties and Powers as a Legislator.—

Duties and Powers as a Judge.—

Duties and Powers as an Executive.—

REMOVAL OF OFFICERS

Any county, precinct, district, town or village officer, elected by the people, or any officer appointed to fill an unexpired term of any such officer, may be removed by the district court for malfeasance in office or for inability or neglect to perform the duties thereof, etc. In case of such removal the governor is authorized to fill the vacancy.

CHAPTER IX

MISCELLANEOUS PROVISIONS

SUFFRAGE

“The crowning fact,
The kingliest act
Of freedom is the free man’s vote.”—*Whittier*.

Those persons that vote for the members of the house of representatives of the state legislatures are electors for the election of national officers. The only restriction put upon the state is found in the fifteenth amendment to the national constitution, which forbids the restriction of suffrage “on account of race, color, or previous condition of servitude.” In general, every male person that is twenty-one years of age and a citizen of the United States, who has been a resident of the state for one year and of the county ninety days, has the right of suffrage. The only male citizens denied the right are idiots, insane persons, and persons convicted of crime who have not been restored to political rights by action of the governor.

The New Mexico Constitution provides that “every male citizen of the United States, who is over the age of twenty-one years, and has resided in New Mexico twelve months, in the county ninety days, and in the precinct in which he offers to vote thirty days, next preceding the election, except

idiots, insane persons, persons convicted of a felonious or infamous crime unless restored to political rights, and Indians not taxed, shall be qualified to vote at all elections for public officers.”

Women may vote at school elections, provided they have the same qualifications as male electors; further provided that the right of woman suffrage has not been suspended in the district by a petition against same presented by the majority of the voters to the board of county commissioners.

Election.—The national government leaves the control of the election of presidential electors and national representatives and senators to the state in which the election is held. In this state the election for state and national officers is held on the first Tuesday after the first Monday in November.

Election in New Mexico.—In this state each political party prepares its own ballot, which is printed separately by the county clerk, whose signature on the back thereof guarantees its genuineness. These ballots are distributed to the leaders of each political party for distribution among the voters. The tickets are printed both in Spanish and in English.

The Australian ballot is not used in New Mexico, but is likely to be used some time in the future, therefore it is well to know something about it. This ballot contains all the party tickets. The party having the largest vote at the last preceding election has its ticket first on the ballot, the other party tickets following in the same relative order. When an elector enters the voting place he is given

a ballot which he must mark in secret and hand to one of the judges of the election, who deposits it in the ballot box. This ballot gets its name from a similar ballot used in Australia. Its special features are its secrecy, its having the tickets of all parties on the one ballot, and the voter's designation of his choice of party or candidate by a cross.

Alien's Rights.—The law gives aliens the right to hold property on the same conditions that govern the rights of citizens.

Right of Eminent Domain.—The doctrine that was held during the feudal age was that the government owned all the land and the individual could not sell his real estate, but the ruler might take it for his own use or might give it to some one else. As the people gained rights they began to limit the power of the government over real estate. By the constitution of New Mexico real property can be taken for public purposes, but the owner must receive due compensation for same.

Common Carriers.—All corporations engaged in the transportation of persons, property, mineral oils, and mineral products are common carriers. A common carrier must carry the property of all citizens without discrimination.

WOMAN SUFFRAGE

Woman suffrage was first established in New Jersey in the early portion of the nineteenth century by accident. After a number of women had voted under the constitution, the state legislature

declared that it was not the purpose of the constitutional convention to give the right of suffrage to women and thereby forbade the women to exercise the right of suffrage.

The first state to grant full suffrage on an equality with men was Wyoming, which established woman suffrage in 1869. Colorado followed in 1893; Utah and Idaho in 1896; Washington in 1910; and in 1912, California, Arizona, Kansas, and Oregon. In 1913 Illinois granted partial suffrage to women. They can vote for presidential electors and certain city officers.

In thirty-two states some form of woman suffrage exists, particularly the right to vote at school elections. Changes in suffrage are being so rapidly made that the student is recommended to look up the subject in the *World's Almanac*, which is published each year and therefore can have its information up to date.

STATE OFFICERS

Terms of State Officers Expire January 1, 1917

Governor.....	William C. McDonald
Lieutenant Governor.....	E. C. de Baca
Secretary of State.....	Antonio Lucero
Attorney General.....	Frank W. Clancy
Auditor.....	William G. Sargent
Traveling Auditor and Bank Examiner,	
	Howell Earnest
Treasurer.....	Owen N. Marron
Commissioner of Public Lands....	Robert P. Ervien

Superintendent of Public Instruction,	Alvan N. White
Ass't Superintendent of Public Instruction,	Filadelfo Baca
State Director of Industrial Education,	Manette A. Myers
Chief Clerk (Department of Education),	Rupert F. Asplund
Corporation Commission	{ Hugh H. Williams, Chairman
	Term expires 1915
	Matthew S. Groves
	Term expires 1917
	Oscar L. Owen
	Term expires 1919
Adjutant General.....	Harry T. Herring

JUDICIARY

Chief Justice.....	Clarence J. Roberts
	Term expires 1917
Justice.....	Richard H. Hanna
	Term expires 1919
Justice.....	Frank W. Parker
	Term expires 1921

UNITED STATES SENATORS

Thomas B. Catron
Term expires March 4, 1919
Albert B. Fall
Term expires March 4, 1921

REPRESENTATIVES IN CONGRESS

Harvey B. Fergusson

Term expires March 4, 1915

MEMBERS OF STATE BOARD OF EDUCATION

William C. McDonald, Governor.....Santa Fe

Alvan N. White, Superintendent Public In-
structionSanta Fe

Frank H. H. Roberts.....Las Vegas

C. C. Hill.....Roswell

Bonifacio MontoyaBernalillo

J. L. G. Swinney.....Aztec

E. L. Enloe.....Silver City

The statements made herein concerning the educational institutions were furnished by the heads of said institutions or by some one subordinate to them. Not a single change has been made in the wording.

THE UNIVERSITY OF NEW MEXICO

David Ross Boyd, President

The University of New Mexico, located at Albuquerque, New Mexico, was founded by the Twenty-Eighth Session of the Legislative Assembly of the Territory of New Mexico, February 28th, 1889.

The first graduating class was from the Normal Department in 1894; from the College Department in 1898.

With statehood the institution became the State University of New Mexico, and offers the usual standardized college courses, and courses in the School of Education.

NEW MEXICO COLLEGE OF AGRICULTURE AND
MECHANIC ARTS

George E. Ladd, President

The New Mexico College of Agriculture and Mechanic Arts was established by act of the territorial legislature on February 28, 1889. It is one of the forty-eight land grant colleges provided for by the Morrill act of 1862 and subsequent acts, and receives from the federal government \$50,000 a year for instruction and \$30,000 a year for research work by the agricultural experiment station, which is a department of the college. The annual appropriation from the state is \$20,000. The institution offers standard college courses in agriculture, various branches of engineering, general science, and household economics; and secondary courses of high school grade along these lines for students who do not have high school facilities at home.

NEW MEXICO STATE SCHOOL OF MINES

Fayette A. Jones, President

The New Mexico School of Mines is a state institution, founded by the territorial legislature in 1889. Sec. 28 of the act creating the institution provides that, "The object of the School of Mines created, established and located by this act is to furnish facilities for the education of such persons as may desire to receive instruction in chemistry, mining, engineering, mathematics, mechanics, drawing, the fundamental laws of the United States and

rights and duties of citizenship, and such other courses of study, not including agriculture, as may be prescribed by the board of trustees.'"

The School of Mines first opened its doors to students September 5, 1893. The institution is located in the Rio Grande valley, at Socorro, and close to some of the largest mines and smelters in the Southwest.

NEW MEXICO NORMAL SCHOOL

C. M. Light, President*

The New Mexico Normal School, located at Silver City, was established in 1893. It is supported by a land endowment and by direct appropriations from the state. Five well furnished buildings situated on a campus of 26 acres constitute its equipment. Its efficiency and its course of study entitle it to be placed in the first rank among normal schools. Its lowest professional course is two years, requiring an academic foundation of fifteen units, and for additional work degrees are granted.

NEW MEXICO MILITARY INSTITUTE

Colonel James W. Willson, Superintendent

The New Mexico Military Institute is located on a plain overlooking the city of Roswell. The campus

* Since Dr. Light furnished this statement he has resigned the presidency of the school. Professor E. L. Enloe has been elected to succeed him.

consists of forty acres of level land dotted with ten buildings, two of which are handsome brick structures. It was opened to students September, 1898. It is a strictly military boarding school, all students being required to live in the institution and submit to garrison regulations. Its purpose is to train young men for business, for the army, and for college. It is not a degree conferring institution, but does considerable collegiate work. Since 1909 it has been ranked by the U. S. War Department as one of the "Distinguished Institutions" of America.

NEW MEXICO NORMAL UNIVERSITY

Frank H. H. Roberts, President

The New Mexico Normal University, located at Las Vegas, registered its first student body October 3, 1898. It graduated its first class in 1899. Its purpose is to prepare young men and young women to teach in the schools of New Mexico. Graduates of accredited high schools are admitted to the junior year of the normal course, which can be finished in two years. There is also an academic department, where first grade teachers are trained.

NEW MEXICO INSTITUTE FOR THE BLIND

R. R. Pratt, Superintendent

The New Mexico Institute for the Blind, located at Alamogordo, is a school where boys and girls who happen to be blind or to have very defective

sight are educated. The institution aims to train as well as to teach. The course of instruction is thorough. It embraces the branches taught in the public schools and many that are not generally taught there, such as typewriting, industrial and household pursuits, instrumental and vocal music and pianoforte tuning.

The institution is non-sectarian. Its pupils are required to attend the church their parents may select. Its object is to so train the blind that they may become useful and independent citizens.

THE NEW MEXICO ASYLUM FOR THE DEAF AND DUMB

W. O. Connor, Jr., Superintendent

The New Mexico Asylum for the Deaf and Dumb, located at Santa Fe, was established by an act of the Council, February 24, 1887. The object and purpose of this institution is to educate mentally, morally, industrially and physically those who are residents of the State, and who are too deaf to be educated in the common schools. The State recognizing the fact that it owes to the deaf child an education just as it does to his more fortunate brother or sister, established this institution, and maintains and supports it with this object in view. This is a school pure and simple and we accept only those capable of receiving instruction. It is not a hospital, an asylum, a correctional institution or a place where we take these children and make a home for them.

CHAPTER X

This chapter is compiled from Twitchell's "The Leading Facts of New Mexican History."

That you may refer more readily to his longer work, the chapter numbers and headings are retained.

CHAPTER I.

(Volume I)

ANTIQUITY OF NEW MEXICO

The science which treats of antiquity finds abundant material for investigation in New Mexico. The study of oral traditions, inscriptions, ruins, and monuments of all kinds in this portion of the United States is most attractive to the archaeologist. This class of historical research and its practical value have only lately become thoroughly recognized in the United States.

The government, however, at a very early day recognized the importance of the subject. In 1795, an agent of the Cherokees was instructed by the war department to make a careful study of language and home life, and also collect material for a history of the Indians. President Jefferson, when planning the Lewis, and Clark expedition to the Northwest in the years 1804-06, stipulated in his instructions to Lewis the close observance of the native tribes, including names and numbers; the extent and limit of their possessions; their relations with other tribes or nations; their language, traditions, and monuments; their ordinary occupations in agriculture, fishing, hunting, war, arts, and the implements for these; their food, clothing, and domestic accommo-

dations; the diseases prevalent among them and the remedies they used, requiring infinite detail in every particular of their manner of living.

In 1820, Jedediah Morse was commissioned by President Monroe to make a tour for the same purpose of "ascertaining, for the use of the government, the actual state of the Indian tribes of our country." Major John W. Powell rendered invaluable services in the work of acquiring a knowledge of the laws, manners and customs of the Indian tribes which were found on this continent by the earliest explorers.

Ruins of ancient Pueblo villages and communal houses are found in the region of the Rio Grande, San Juan, Chaco, the Animas and Gila rivers, which antedate the coming of the first Spaniards, and which furnish an interesting and absorbing clue to the prehistoric races inhabiting this region. The great community houses give rise to much speculation and can be only a matter of conjecture.

CHAPTER II

THE FIRST SPANISH EXPLORERS

causes of the disappearance of these races and their

The Narvaez Expedition.—The Spaniards began their explorations of the western continent early in the sixteenth century. In June, 1527, Panfilo Narvaez set sail from San Lucar de Barrameda in Spain for the New World, bringing with him colonists and soldiers. Arriving at San Domingo, they

stopped there for some days to obtain horses, after which they proceeded to the Florida coast, landed a part of the colonists, who explored the country for gold and riches rather than for farms and homes. Meanwhile, the ships were wrecked and those remaining aboard lost, while those on the land were being killed by the Indians, by starvation and disease. The only survivors of whom there is any record were Alvar Nuñez Cabeza de Vaca, Andrés Dorantes, Alonzo del Castillo Maldonado, and a negro, Estevan, a native of Azamor on the west coast of Morocco and a slave of Dorantes; Juan Ortiz completed the number of survivors of this ill-fated expedition of Narvaez.

Cabeza de Vaca's Wanderings.—After a long captivity by Indians, the first four of these succeeded in reaching Mexico City in July, 1536, where they were royally entertained by the Viceroy, and Hernando Cortés, Marqués del Valle. Alvar Nuñez made a complete report of his wonderful journey from the Florida coast to the City of Mexico to the Royal Audiencia and of the fate of Narvaez and his companions. He returned to Spain, reaching the port of Lisbon on August 9, 1537, was summoned at once to court, to report to the Emperor, Charles the Fifth, presenting him with a buffalo hide, some emeralds, and some turquoises which he had collected during his journey from the Gulf of Mexico to the Pacific coast.

The story of Alvar Nuñez Cabeza de Vaca, which was published five years after his return to Spain,

is unrivalled in the history of the world in its recital of marvelous adventure, shipwreck, captivity by Indians, his escape, and final meeting with the Spaniards near the Pacific coast.

From his report undoubtedly was prepared the narrative of the historian, Oviedo. The relation as given was first printed at Zamora, in the year 1542. A map of the region traversed was also prepared and left with the Viceroy.

CHAPTER III

EXPLORATIONS OF FRIAR MARCOS DE NIZA

The Search for Wealth.—Hernando Cortés, governor, captain-general, and chief justice of New Spain, was succeeded in office, in 1526, by Luis Ponce de Leon, who had been sent out from Spain to prefer charges against the conqueror of Mexico. In 1528 Cortés left Mexico for Spain. Meanwhile, Nuño de Guzman had been appointed governor, and, having been told by a Tejos Indian that there was great wealth far to the north, in gold and silver, he determined to send an expedition into these north countries for the purpose of discovering and obtaining for himself this great wealth. The Indian told him of large cities whose streets were lined with houses occupied by workers in these precious metals. These cities, he said, could be reached by a journey of forty days' duration. In the progress of this expedition, Guzman conquered Sinaloa, founded Culiacan, but failed to find the cities of gold and

silver workers. He gave to the conquered land the name of New Galicia.

Cortés returned from Spain in 1530, bearing the title of Marqués del Valle de Oajaca, together with privileges and rights of exploration, and in the next few years made several attempts to navigate the South Sea.

Friar Marcos.—In 1538, Fray Antonio de Ciudad Rodrigo sent Fray Juan de la Asuncion and another friar on a mission beyond New Galicia-Sinaloa in an attempt to explore the unknown north country. Just at this time Friar Marcos de Niza determined to make an exploration himself, which he did, reporting upon his return a very wonderful land. Friar Marcos left San Miguel de Culiacan on the seventh day of March, 1539, accompanied by Friar Onorato, the slave Estevan, and some Indians who had gone to Mexico City with Alvar Nuñez Cabeza de Vaca and had become Christians. These Indians were to be guides and to protect Friar Marcos. The Friar Onorato fell ill when the village of Petatlan was reached, and was left there by Friar Marcos, who proceeded on his way with the Indians and the negro Estevan. Friar Marcos sent Estevan on in advance to spy out the land and send reports back to him, which the negro did, but failing to obey the orders of the Viceroy to treat all Indians with kindness and mercy, was taken prisoner and killed somewhere near the present Indian village of Zuñi. The friar returned to Mexico City with much haste, and reported a beautiful country.

CHAPTER IV

CORONADO

The City of Mexico in the year 1540 contained approximately two thousand inhabitants, made up of two classes, sharply divided and almost antagonistic. The one class were the soldiers of fortune, unemployed, restless spirits, longing for campaigns, conquest, and consequent adventure, fame and fortune. The other class were the settlers.

The return of Friar Marcos, and his report to the Viceroy, produced a tremendous sensation among the many cavaliers then sojourning in the ancient capital of Montezuma. Justly proud of the achievement of Friar Marcos, his friends in the priesthood and members of his order improved every opportunity to laud his single-handed effort in behalf of the church and crown.

Coronado's Expedition.—While the church was advertising to the world the accomplishment of the Friar Marcos, the Viceroy endeavored to maintain secrecy in respect thereto, in order that he might fit out an expedition for the purpose of exploring this new country before its wonders should become known to the world. However, these efforts at secrecy failed, and all prominent men in the City of Mexico at that time urged their individual right to be allowed by the crown to explore. Cortes sent out an expedition by sea, headed by Ulloa, from Acapulco, who ascended the Gulf of California but failed to find the country for which he was seeking.

Meanwhile the Viceroy was active, and was able to send out an expedition numbering more than three hundred Spaniards, mounted, and about eight hundred Indian allies. This expedition was mobilized at Compostella with Francisco Vasquez Coronado named commander. They took with them large numbers of sheep and cattle for supplies. The expedition left Compostella on Monday, February 23, 1540, arriving in the neighborhood of Zuñi about the middle of May, 1540. Upon arriving at Cibola, the Indians attempted to drive them away, firing upon the Spaniards with arrows and pressing the Spaniards so closely that Coronado gave the war cry of "Santiago," charged upon them and drove them back into the town, which after a short skirmish was surrendered by the Indians. In this village the Spaniards found food, of which they had great need, and shelter. They were disappointed in the character of the village and people, but notwithstanding this, they made a careful examination of all they saw; the customs of the people and everything of consequence that might be of interest to the Viceroy and the King. From this point Coronado sent out expeditions, one to discover the Colorado River, of which he had heard, under Garcia Lopez de Cardenas, and one under Hernando de Alvarado to search for the province of Cicuyé and Tiguex. He was so pleased with the village of Tiguex that he advised the captain-general to winter his troops at that place. This Coronado determined to do, leaving at once for that province.

Meanwhile, the army under Arellano, leaving Sonora in the latter part of October, had reached Cibola, and joined Coronado at the pueblo of Hawaikúh. Coronado visited all the villages of this province, and resumed his march to Tiguex, reaching that place, where Alvarado and Cardenas were awaiting him in the village that had been prepared for winter quarters. During this winter the Spanish soldiers indulged in many acts of treachery which finally resulted in a severe battle in which the Indians were worsted and compelled to surrender, when Cardenas caused them to be bound and burned at the stake. These winter quarters were situated close to the present town of Bernalillo, on the Rio Grande.

Coronado Explores New Mexico.—Coronado was informed by the Indians that there was a very rich province called Quivira, far to the east and north, and he became determined to find this country. Early in May he started with his army. In a short time they were out upon the plains, where they discovered the buffalo and some new tribes of Indians, and after sixty-seven days of marching reached the region called Quivira. The captain-general derived small satisfaction from this expedition, enjoying only the empty honor of taking possession in the name of his royal master. In August, Coronado started on the return to Tiguex, there to winter his army. Two friars remained with the Indians in order to convert them to Christianity, but both were killed by the savages.

While in New Mexico the Spaniards explored the pueblos of Taos and that of Jemez, the inhabitants of which were left entirely in peace. Another detachment went down the Rio Grande until it reached a point in the vicinity of San Marcial and Socorro, where there were numerous villages of Indians called Piros. All of these pueblos and their inhabitants were examined carefully in order that a complete report might be made to the king and to the Viceroy upon the return of the expedition to the City of Mexico.

CHAPTER V

THE SPANISH FRIARS

Expedition Ends in Disaster—The Franciscans Become Interested.—The expedition led by Coronado had been so disastrous in its results that nothing in the way of exploration was done, in the countries visited by him, for forty years. The Seven Cities of Cibola had been almost forgotten. Colonization of the northern portions of New Spain, however, was carried on and many settlements were established. The king of Spain required that every expedition be accompanied by representatives of the church, and, in this way, under royal order, not by papal bull, the explorers of the new world were accompanied by priests and monks who endured all the privations and hardships of a soldier's life.

When the news reached Spain of the martyrdom

of the Friar Juan de Padilla, a number of Franciscans were fired with the zeal of entering the country and carrying on the work thus begun. Several received the royal permission and went to the Pueblo country. It is said that one was killed at Tiguex, where most of them settled. A few went to Cicuyé or Pecos, where they found a cross which the Friar Juan de Padilla had erected. Others went on to Quivira, where the natives told them of the death of Friar Juan de Padilla. Every facility was granted to these friars by the government for their coming to New Spain and other portions of the newly discovered countries.

In the settlement of San Bartolomé, in southern Chihuahua, there was a Franciscan friar, named Agustín Rodriguez, who became filled with a desire for martyrdom, and determined to try to obtain permission to visit this far-off region. In November, 1580, he made application to the Conde de Coruña, at that time Viceroy of New Spain, and secured permission to explore the new country, to learn the language and to bring about the conversion of the Indians to the Holy Catholic faith. He was accompanied by two brothers of this order, whose names were Friar Francisco Lopez and Friar Juan de Santa Maria. In addition there were twelve soldiers, under the command of Francisco Sanchez Chamuscado; there were also ten or fifteen Indians, servants, and a mestizo, named Juan Bautista. Arriving at Tiguex, the soldiers explored the country near by for a time, and then decided to

return to San Bartolomé, which they did, after begging the friars to return with them, but all in vain. These priests were all killed by the Indians in a short time after their coming to New Mexico.

The brothers of the Order of Franciscans who were at the time located in the province of Nueva Viscaya, hearing of the accounts of the death of Friar Rodriguez, were very much troubled over the fate of the remaining friars, at that time not knowing of their death. As a consequence they did everything possible to secure the services of a company of soldiers to march to their relief. One friar, Bernardino Beltrán, was particularly active in his efforts to secure the accomplishment of this design on their part.

At this time there was a cavalier at the mines of Santa Barbara named Antonio de Espejo, a native of Cordova, and a man of wealth, courage, and industry. He offered his services to the Franciscans for the purpose of the rescue of their brethren, declaring he was willing to risk his life and fortune in the enterprise, provided he should be authorized by some person in authority to undertake it. The offer was accepted, and the governor, or chief alcalde of Cuatro Cienegas, took it upon himself to issue the license and commission. Espejo was authorized to take with him as many soldiers as might be willing to follow his fortunes, or would be required to carry out the objects of the expedition.

The story of the martyrdom of these friars, as told by one historian, is as follows: After the departure

of the soldiers, the friars continued their journey to the north, and, after traveling a few leagues, arrived at the pueblo of Galisteo. Throughout their entire journey they had found the Indians very peaceable and friendly and willing to furnish them with food and other necessities. Being highly pleased with the provinces through which they had passed, the friars decided to send one of their number back to New Spain to make a full report of their observations and to invite other friars to come to that country. The Friar Juan de Santa Maria volunteered to undertake the journey, upon which he was accompanied some distance by Friar Rodriguez and Friar Lopez, who returned to Puara, near Bernalillo, where they established themselves for the purpose of learning the language of the country. After bidding his companions farewell, Friar Juan de Santa Maria proceeded over the Sandia mountains to El Paso del Norte. The third day, when near the pueblo called San Pablo, while resting under a tree, he was killed and his remains burned.

The two remaining friars lived some time in peace at Puara, pursuing their labors without interruption. One afternoon Friar Lopez retired about a league from the village to engage in his devotions, and while occupied in prayer was killed by an Indian. Members of the tribe afterwards pointed out to Friar Rodriguez the place where the body of his companion had been buried, which he caused to be disinterred and reburied in the pueblo. The death of Friar Lopez was a sore affliction to the sole

survivor, who mourned his loss in bitterness of spirit. He felt now, in truth, that he was alone in the midst of these barbarians, with no one upon whom he could rely save Him whose cause he most earnestly espoused.

The war-captain of the pueblo of Puara was much grieved over the death of the friars and, in order to save Friar Rodriguez from the same fate, removed him to the pueblo of Santiago, a league and a half further up the river. But his death had been determined upon and it was impossible to save him. A few days afterward he met the same fate as his brethren, and his body was thrown into the Rio Grande, at that time in flood.

CHAPTER VI

EXPLORATION OF THE RIO GRANDE VALLEY

Espejo's Rescue Expedition.—The arrangements for the expedition into New Mexico for the recovery of the friars were made by Espejo with all the rapidity possible under the circumstances. Espejo was a very energetic man and in a short time all the necessary arrangements had been perfected. Fourteen soldiers volunteered for the entrada. The explorer furnished an abundant supply of arms and ammunition, and also one hundred and fifteen horses and mules. The commander and his small company left San Bartolomé, with a large number of Indian servants, on the 10th of November, 1582, following

the same route down the Conchos that had been taken by the Friar Rodriguez and his brothers, and reached the junction with the Rio Grande after a journey of fifteen days.

In the course of this march to the Rio Bravo they passed a province inhabited by the Conchos Indians, who gave the Spaniards a cordial welcome, furnishing them with food of all sorts, which seemed to be very plentiful. Leaving the Conchos Indians, Espejo arrived among the Passaguates, then in the land of the Tobosos, whose inhabitants fled to the mountains on the approach of the Spaniards. From the mouth of the Conchos the Spaniards passed into the country of the Jumanos, who, like the Tobosos, were hostile at first, attacking the Spaniards, killing some of the horses, and then fleeing to the mountains. They afterwards became friendly, through the efforts of interpreters, and furnished guides and provisions.

After leaving this portion of the country of the Jumanos, they continued up the river, but Espejo does not record definitely the time consumed in the journey nor the distance. They passed through other large provinces of friendly Indians, but having no interpreter could learn nothing about them or the country.

Following the course of the Rio Grande, Espejo journeyed for a distance of eighty leagues without meeting any inhabitants and reached the pueblos, where the houses were three or four stories high and where ten towns were visited, situated on both

sides of the Rio Grande; many other towns were seen in the distance. All these people were friendly. These pueblos must have been located in the valley beginning with the site of the present town of San Marcial, just after passing the Jornada del Muerto.

These were the pueblos that had been visited by one of Coronado's captains and the Friar Rodriguez.

Upon the arrival of the Spaniards at Puara, the news that the friars, Rodriguez and Lopez, with some of their attendants, had been murdered, was confirmed. The recollections of the vengeance of the Spaniards under Coronado and Cardenas of forty years before caused the Indians to take flight upon the approach of Espejo, and, although he offered every inducement to them to return, they refused to do so, leaving behind large quantities of provisions, of which the Spaniards stood in sore need.

Rescue Expedition Becomes an Exploring Party.

—The primary object of the expedition was now accomplished, but Espejo, after consultation with the Friar Beltrán, determined to explore further before returning to New Biscay, and it was decided that the command should remain at Tiguex while these explorations were being made, and with only two men started eastward, traveling for two days, when he arrived at the province of Maguas, which he described as very prosperous. Returning to the Rio Grande, he took the entire command, and moving up the river, visited the Jemez country, then over to the Acoma, Zuñi, and Moqui pueblos. From

here he returned to the Rio Grande, and thence homeward.

Many other expeditions were sent into the new north country, notably under the command of Ibarra, Humano and Castaño de Sosa. Espejo applied to the king for the right to colonize the lands he had visited. There is no record, however, that anything came of this proposition.

Castaño de Sosa started on the 27th day of July, from Almaden, somewhere in Nuevo Leon, and in his command there were over one hundred and seventy persons, including women and children, and a wagon train of supplies. After traveling for two weeks the party arrived at the Rio Grande, from which point several exploring parties were sent out. When these parties had returned and reported, they again started north for the Pecos river, which they followed until they reached the village of Cicuye. From this point were sent out many exploring parties, until one day his men reported the coming of a force under Captain Juan Morlete. Hastening to the camp of Morlete, he found that Captain Morlete had been sent to arrest him for entering the country without a license. He was thus returned to Mexico City.

CHAPTER VII

CONQUEST OF NEW MEXICO

The Real Conqueror, Oñate.—The actual conquest of New Mexico was accomplished by Don Juan de

Oñate in the years 1598 and 1599. He undertook this enterprise after several years of preparation, in a businesslike and systematic manner, and his achievement is one of the most important in the annals of the country.

Don Juan de Oñate was a resident of Zacatecas, a man of very considerable wealth, and ambitious to be known as one of the discoverers of the New World, and offered to equip and pay the wages of at least two hundred soldiers.

The king was not to pay any portion of the expenses of this expedition, as proposed by Oñate, and in the month of September, 1595, the viceroy signed the contract, accepting all but the most extravagant of Oñate's demands, the agreement entered into being a stipulation for "the discovery, pacification and settlement of the provinces of New Mexico, which are in New Spain."

As soon as the contract had been signed by the viceroy, Oñate began, assisted by his four brothers, and his four nephews, and other powerful friends, to recruit his army.

Six or seven hundred men had enlisted, and the preparations for departure were about concluded when the Count de Monterey succeeded Luis de Velasco as viceroy. The new viceroy began at once to investigate the fitness of Oñate for this enterprise, and the expedition was deferred until he could conclude this investigation to his complete satisfaction. However, he ratified the contract, after making certain modifications, which was the means

of causing much trouble to Oñate with his enlisted men, since they objected to any modification of their privileges.

After many vexatious delays, the order came on the 17th of December to prepare for the final inspection and to proceed to New Mexico, and on the 20th day of January, 1598, Oñate started with his army from San Bartolomé. With them went a considerable number of Franciscan priests and lay brothers.

Oñate reached the Rio Grande on the 30th of April, 1598, following this river up to the present site of El Paso on the 4th of May. From here he sent out reconnoitering parties, who explored as far north as San Marcial. After the return of these parties, Oñate advanced to this point, with a few soldiers and two friars, where they were received with much friendliness by the Indians. Thence they advanced north to the pueblo of Puara, where two Indians from Mexico, who had been left by Castaño, were brought to him, and they were hereafter invaluable to him as interpreters in his visits to the different pueblos for the purpose of establishing the Spanish authority and the Christian religion.

On the 7th day of July, the Pueblo tribes held a conference, at which time they gave their allegiance to the Spanish crown. At a second conference, the religious missions of New Mexico were definitely located, and the presidents of the missions designated. Seven of the priests were thus commissioned to most dangerous charges, including the Apaches,

as well as the Pueblo tribes of Indians. From here the army moved up the river to the pueblo of San Juan. Across the Rio Grande from San Juan, Oñate established his capital and gave it the name of San Gabriel. In about the year 1606, Oñate changed his capital to Santa Fe.

From his capital, Oñate continued his explorations, going to Taos, San Ildefonso, and thence to San Marcos and San Cristobal. Returning to Santa Fe, Oñate journeyed to Pecos by way of Galisteo. Immediately he left for Santo Domingo and later on, to Jemez.

After the work of explorations had been concluded, Oñate set to work on irrigation ditches. Early in September, Friar Martinez apportioned the pueblos into districts and over each one appointed one of the friars who had come with the expedition.

In October, Oñate proceeded to Acoma, where he received the submission of the chiefs; from Acoma, he went to Zuñi, which pueblo also gave its allegiance to the crown. One of the chiefs at Acoma, being strongly opposed to the submission of his people to the Spaniards, excited the people to revolt, and upon the return of the Spanish forces, the pueblo rose against them. After a fierce battle, however, the Spaniards were victorious.

During the absence of Oñate on a journey of exploration of the great plains, the settlers of San Gabriel returned to Nueva Vizcaya. Oñate sent one of his men, who brought them back by force, and was joined by new settlers, and the prosperity

of the colony gradually returned, and with a succession of governors, appointed by the viceroy, continued to thrive for many years.

CHAPTER VIII

PUEBLO REBELLION AND INDEPENDENCE

The Pueblos Overthrow the Spanish Rule.—The Pueblos for a period of nearly half a century, and during the administration of fourteen Spanish governors, had made ineffectual attempts to free themselves from the yoke of the invaders. Filled with fear, the Spaniards were always on the alert, and the most unceasing vigilance on their part was always exercised and was required to prevent their expulsion from the country. Many attempts were made by the Indians, which always resulted in the death or enslavement of the participants; notwithstanding these failures, however, the Indians determined upon a united and mighty effort to rid themselves of the oppressors. This led to the rebellion of 1680, which resulted in the expulsion of the Spaniards, and independence on the part of the natives, although for ten years the government spared no effort to reconquer the country.

This successful attempt at driving out the Spaniards was inaugurated by an Indian named Popé, who had much influence with the Indians. He traveled about the country inciting all tribes to rebellion, and with great success. The plot, however,

was revealed to the governor by some priests, who had heard it in the confessional, and immediately the governor sent messengers in all directions warning the friars and settlers to flee to the nearest place of safety.

On the 10th of August, 1680, the revolution broke out in all parts of the province. The Indians determined upon the utter destruction of the Spaniards, and the number slain was over four hundred, including twenty-one missionaries. Those who escaped numbered 1,950, including eleven friars.

After a siege lasting five days, the governor determined to abandon the capital at Santa Fe, and marched to the relief of Isleta. The Indians watched the Spaniards as they left the city, not attempting to interfere, unwilling to risk their lives against the desperate courage of the governor and his band. On arriving at Isleta, the governor found that the people at that garrison had fled many days before to Fray Cristobal, and as they proceeded they were met by messengers returning from Fray Cristobal, and all proceeded southward to a point below Las Cruces, where the refugees camped for the winter in rude huts, in the building of which the women assisted. From this point the governor made an attempt to recover the lost territory, which proved unsuccessful, and he returned to the encampment near El Paso del Norte.

De Vargas Reconquers the Lost Province.—In August, 1683, Domingo Jironza Petriz de Cruzate became governor of New Mexico, which office he

held four years. During this time Cruzate made attempts to recapture New Mexico from the Indians, and was partially successful. He was succeeded by Don Diego de Vargas as governor.

Don Diego de Vargas Zapata Lujan Ponce de Leon, upon his arrival in the province of New Mexico, at once devoted himself to the task of subduing the Indians, and, organizing the forces he found at the garrison at El Paso del Norte, he moved at once up the Rio Grande, passing pueblo after pueblo which were in ruins. Arriving at Santa Fe, he found the Tanos Indians occupying the houses. They were at first very defiant, but after parleying with them, they surrendered without a blow being struck. From this time on the pueblos, one after another, were persuaded to give their allegiance to the Spanish crown. After having visited the pueblos of Acoma and Zuñi, de Vargas determined to spend the winter with all his men at El Paso, and late in December arrived at that place with his entire force.

The next year de Vargas gathered together as many soldiers and settlers as could be persuaded to accompany him, and returned to Santa Fe. With him went seventeen friars under P. Fr. Salvador de San Antonio as custodio. The command proceeded up the Rio Grande, visiting the different pueblos on the way. They arrived at Santa Fe in December, 1693, when, under the original banner carried by Juan de Oñate, he made a triumphal entry into the capital of the kingdom.

Arriving at Santa Fe they found the Indians occu-

pying the buildings built by the Spaniards under Oñate, which the Indians refused to surrender. A severe battle followed in which the Indians suffered great loss, and notwithstanding reinforcements from the Tehua nation, the Indians resolved to surrender, and de Vargas again occupied the town of Santa Fe as his capital.

In June, 1696, the Indians of the pueblos of Taos and Picuris, Tehuas, the Queres of Santo Domingo, Cochiti and Jemez, rose, killing five missionaries and twenty-one other Spaniards. There was a small detachment of soldiers at Cia, commanded by Captain Miguel de Lara, who took the field against the Indians, and punished them severely, causing them to flee to the mountains. De Vargas finally suppressed this rebellion.

CHAPTER IX

SPANISH RULE, 1693-1822

De Vargas and Cubero.—The term of office of de Vargas as governor expired in 1696, and the king named Don Pedro Rodriguez Cubero to succeed him. Owing to his successful administration, de Vargas had expected to be reappointed, and made a protest to the viceroy. The viceroy, however, withheld this protest and his own action of sustaining the appointment of Cubero from the king for three years. When the king was apprised of the situation he made a public acknowledgment of the thanks of the

crown and gave de Vargas the choice of the titles of *marqués* and *cónde*, and a re-appointment to take effect three years later upon the expiration of the term of Cubero, or sooner, if the office should become vacant. The king also ordered that the garrison at Santa Fe should be strengthened and that more families should be sent there from Mexico.

From the first de Vargas had incurred the displeasure of the *cabildo* (the court of justice and administration) of Santa Fe. Enjoying the full confidence of the highest officials in Mexico City, he had proceeded to administer affairs in New Mexico as he considered right, ignoring the minor civil and military officials in many ways. His policy of restoring the Indians to their *pueblos* displeased the settlers, who were thus deprived of their slaves. Upon the arrival of Cubero, the *cabildo* took up the quarrel with de Vargas and filed formal charges against him of embezzlement of money which had been given him for the support of the colonists. There were likewise many other charges preferred against him, and the *cabildo* was fully aware that Cubero was an enemy of de Vargas, and was determined to be revenged upon him. Cubero gratified his own enmity and that of the *cabildo* by finding him guilty as charged and confiscating his property, and confining him in jail for nearly three years. At the very time that he was being publicly thanked by his king, he was confined in the jail at Santa Fe. He was finally permitted to go to Mexico City to present his case before the viceroy, who ordered an

investigation, and as a result he was fully exonerated. When the cabildo heard this it at once petitioned the king against his return; thereupon, the king ordered the cabildo investigated, and the cabildo immediately recognized its own situation and retracted the accusations it had made.

In August, 1703, Governor Cubero, hearing that de Vargas was on his way from Mexico City to assume the duties of office as governor, and fearing that de Vargas would take revenge upon him for the many acts of cruelty inflicted upon de Vargas, under the pretext of campaigning against the Indians, left the capital and never returned. De Vargas, now the Marqués de la Nava de Braziñas, arrived at Santa Fe in November, 1703, and assumed the duties of governor and captain-general for the second time. In March of the following year de Vargas began a campaign against the Apaches, but was taken suddenly ill in the Sandia mountains and died at Bernalillo on the 4th of April. His remains were taken to the capital and buried under the altar in the parish church.

Juan Paez Hurtado, lieutenant-general, served as governor until March, 1705, when the viceroy made an appointment to that office. From this time on to the date when Mexico declared its independence of the mother country, 1821, there were more or less frequent changes in the administration of the office of governor of New Mexico. Each governor in turn engaged in the subduing of the Indians, in the propagation of the Christian religion, in bringing more set-

tlers to New Mexico, all to the glory of the Spanish crown.

The population of New Mexico in 1800, as given by Bancroft, was twenty-three thousand seven hundred sixty-nine Spaniards, and ten thousand three hundred sixty-nine Indians.

In 1806 Lieut. Zebulon M. Pike headed an expedition in the interests of the government of the United States through the Southwest. Pike was met by a Spanish force, who informed him that he was on Spanish territory, and took him and his men in custody and returned to Santa Fe. From Santa Fe, Pike was sent to Chihuahua as a prisoner, but finally allowed to return to the United States. Captain Facundo Melgares was the last of the Spanish governors. He was succeeded by Francisco Javier Chaves under the Mexican regime. Liberty from Spanish rule was received with demonstrations of great joy by the inhabitants of New Mexico.

CHAPTER I

(Volume II)

NEW MEXICO A TERRITORY OF THE REPUBLIC OF MEXICO

Mexico Gains Her Independence.—The revolt of Mexico against Spanish sovereignty was begun in 1810 and had been carried on, with varying success, until February, 1821. On the 24th of February of that year the Plan of Iguala, asserting the independence of Mexico, was adopted and proclaimed. From this time on the revolutionists were generally successful, and on the 24th of August the treaty of Cordoba was signed by Agustin de Iturbide for Mexico, and by Viceroy Juan O'Donoju for Spain, the latter, however, not acting under authority from his government. Under this treaty the independence of Mexico was recognized, a constitutional monarchy established, and Ferdinand VII invited to the throne. Hostilities, however, did not cease until the City of Mexico was taken by Iturbide, September 27, 1821, whereby the independence of Mexico was consummated.

A Government Is Established.—A provisional council, consisting of thirty-six members, was immediately created under the Plan of Iguala. Iturbide was president and commander-in-chief of the army

and navy. On the 13th day of February of the following year, the Spanish government disapproved the treaty of Cordoba.

Meanwhile, pursuant to the provisions of the Plan of Iguala and the treaty of Cordoba, an election of deputies to a congress was held, and on the 24th day of February, 1822, this congress assembled in the City of Mexico for the purpose of drafting a constitution. Immediately a struggle began between the president and the members of congress, which culminated in the election of Iturbide as emperor on the 19th day of May, 1822. He was crowned on the 21st day of June following. Owing to his despotism he was banished after a very brief reign, and returning secretly to Mexico was executed by order of the government.

New Mexico Becomes a Territory of Mexico—Indian Warfare.—New Mexico was made a territory of the Mexican Republic, and the official title of the executive under the Mexican government was political chief, *jefe politico*, from 1823 until 1837, from which time he was known as governor, *gobernador*. Under the constitution of 1836 the territory became a department, and so remained until General Kearny occupied it in 1846.

Traffic between Missouri and New Mexico at this time was increasing in volume rapidly, and in 1829, owing to danger from the nomadic tribes of Indians, an arrangement was made between the government of the United States and the Republic of Mexico, whereby American troops were sent to guard cara-

vans to the Arkansas River, and from that point the Mexican troops performed this duty, the Arkansas River being the boundary between the possessions of the United States and Mexico under the treaty of 1819. Pursuant to this arrangement, four companies of the Sixth United States Infantry marched across the great plains to a point on the Arkansas River near the town of Hartland, Kearny County, Kansas. The battalion was under the command of Major Bennett Riley. The Mexican soldiers were under the command of Colonel Viscarra, who was a noted Indian fighter.

These Indians of the plains, the Arapahoes, Comanches, Pawnees, and Cheyennes, were very warlike and dangerous enemies for these caravans to meet, and, without the protection of these soldiers, there was small chance for reaching their destination. When the Comanches took captives, they made the women their wives, the boys were made slaves, and the men were sometimes adopted into the tribe after a long probation. The Apaches were relentless murderers, killing for the love of killing, mutilating their victims in a savage manner, and the Navajos were great thieves, but never hesitated to kill if they were opposed. Thus the Indian wars were continuous, many whites being killed, their women carried into a captivity worse than death, and from which they were never recovered.

The Jicarilla Apaches were bitter enemies of the Americans. In 1834, having met a Missourian and

some companions, they had stolen their horses; being pursued into the mountains near Taos a fight occurred in which several Indians were killed and the horses regained. Some days later all of the Jicarilla warriors visited Santa Fe and demanded of the Mexican authorities that all Americans be turned over to them for vengeance, whereupon, preparations for defense were begun, and the savages departed for their mountain homes. Through experiences of this sort the American came to feel that the Indian was a foe to civilization, and the only safe policy was one of extermination.

CHAPTER II

CHANGE IN GOVERNMENT AND REVOLUTION OF 1837-8

A Change in Form of Government Followed by a Revolution.—In 1835 changes were initiated in the government of the Republic of Mexico, when, on the 3d day of October of that year, by act of congress, the state legislatures were abolished and departmental councils, or juntas, established. A little over a year later a new constitution was adopted by which it was provided that the national territory should be divided into departments, governors appointed, with an election of departmental councils, whose powers it defined.

The creation of this central system of government and the adoption of the new constitution were in some degree responsible for the revolution which occurred in 1837. There were a number of causes contributing to the revolutionary outbreak. Under the new system of government a direct system of taxation was provided for, and this was an innovation disapproved of by the people. Next, Colonel Albino Perez was sent as governor of New Mexico; this caused dissatisfaction, as their governors, since the Mexican independence, had been, up to this time, native New Mexicans. The governor was a believer in the education of the common people, which also

was disapproved of by the classes. One of the chief instigators of dissension was Manuel Armijo, a discontented and ambitious person, who determined to get himself into office by whatever means necessary to gain his desires. He confided in some friends, who were influential politically; they took issue with the governor in the matter of collecting the revenues, inciting the poor, uneducated people to revolt by making the most absurd charges upon the question of direct taxation. They were too ignorant to make inquiry into the truth of the matter, and believed blindly what they were told, and were soon aroused to a point of frenzy, committing acts of violence. The governor called for the militia but could muster only a few men; these he led against the insurrectos, who, when the enemy were met, deserted him. The governor and the few trusted men left made their escape to Santa Fe, where the Indians overtook and killed Perez and nearly twelve of the governor's adherents.

The insurrectos took possession of Santa Fe on the 10th of August, 1837. A Taos Indian, named José Gonzalez, was made governor. The property of the murdered men was distributed among the insurrectos, Gonzalez coming into possession of the effects of Governor Perez.

Armijo Usurps Government of New Mexico.—At this stage of the proceedings Armijo stepped forth to play out the part he had commenced, and for which purpose he had to resort to more intrigue and bad faith. Perfecting his plans, he gathered

a considerable force in the Rio Abajo, declared his revolution in favor of the central government of Mexico, and marched to Santa Fe. Gonzalez heard of his approach and fled. Armijo entered Santa Fe, took possession of the palace, proclaimed himself governor and comandante-general of the department. He quickly dispatched a messenger to Mexico City with an account of affairs, not forgetting his own valiant deeds and services in restoring peace and order in the department.

The supreme government of Mexico at once sent troops to suppress the insurrection. Troops to the number of four hundred were sent from Chihuahua early in 1838. Under the pretext of desiring to treat with them, Armijo had kept the insurrectos in a comparative state of quiet, but on the arrival of the dragoons from the south, open hostilities were proclaimed against them.

Armijo, commanding the entire force of regulars and militia, now marched against the insurrectionary army at La Cañada. A battle ensued which resulted in the complete rout of the insurrectos. Gonzalez with other leaders fell into the hands of Armijo, who now demonstrated his true character of tyrant. Having the supreme power, he concluded to dispose of those confederates whom he could not reward, and therefore court-martialed and sentenced to death many of the men who had aided him with money and arms, as well as their personal efforts, which with his own treachery resulted in his coming into his present commanding position. Many

persons of influence exerted themselves to procure a remittance of the death sentence, but Armijo was deaf to every appeal on behalf of his former associates and confederates.

CHAPTER III

TEXAS-SANTA FE EXPEDITION

An Attempt to Annex New Mexico to the Texas Republic Ends in Failure.—In 1841 General Mirabeau B. Lamar, president of the Texas republic, was instrumental in fitting out and starting an expedition from Texas to Santa Fe. The Texan rulers claimed New Mexico as part of the Texas territory, and thought that the time had arrived when New Mexico should be brought under the control of their government, and this expedition was organized with the full belief in the readiness and willingness of the New Mexicans to accept it. The plan seems to have been that if they found New Mexico ready to declare full allegiance to Texas, the flag of the Lone Star Republic was to be raised over the old palace; but if not, the Texan commissioners were only to make such arrangements with the authorities as would best tend to the opening of trade, and then retire.

The expedition left Austin in the month of June, 1841. There were six companies, under the command of Hugh McLeod, brevet brigadier-general of the Texan army. Accompanying them came three commissioners, Colonel W. G. Cooke, José Antonio Navarro, and Dr. Richard F. Brenham. The com-

missioners carried with them proclamations, printed in English and Spanish, explaining the advantages of the freedom offered by the Texans, with never a doubt that the liberal terms would be at once acceded to by a population living within the limits of Texas, and who had long been groaning under a misrule the most tyrannical.

Expedition Meets With Treachery.—Governor Armijo had been warned that this Texan expedition was under way and would reach the capital in a short time, and in consequence of this warning a force, under Captain Salazar, was sent out to meet the invaders. This captain first took captive the advance party, which was reconnoitering, lined them up with the intention of shooting them at once, when a New Mexican, named Gregorio Vigil, who had a sense of justice, interceded for them, insisting that they be taken to the governor as they had requested. This was acceded to by the valiant captain. About a month later the remainder of the Texans surrendered to Armijo. All their personal effects were taken from the Texans and distributed among the Mexicans, and in the plaza in Las Vegas a great celebration was had, at which the printed copies of Lamar's proclamation were burned. Armijo then left for his capital, and from that city the Texans were sent to the City of Mexico, where they arrived early in 1842. After their arrival some of them were released upon the intercession of foreign ministers, who claimed that they were not Texans and had joined the expedition not knowing its real

objects. The remainder were finally released by General Santa Ana on the 13th of June, 1842. The only exception was the commissioner, Navarro, who was condemned to death, but who finally bought his way out of prison and escaped to Texas.

Retaliation.—The people of Texas were loud in their threats of vengeance upon the Mexicans, and as soon as the prisoners had returned, retaliatory enterprises were openly discussed. The Mexicans soon learned of the intentions of the Texans, and were filled with apprehension, because they believed their enemies would be supported by the United States. However, this great army of invasion and vengeance resolved itself into nothing but the attempted plundering of caravans in the Santa Fe-Chihuahua trade. The first of these pillaging expeditions, however, occurred on United States territory, under Colonel Jacob Snively, whose force was promptly taken by U. S. soldiers under Captain Philip St. George Cooke. The Texans were disarmed, and Captain Cooke, with his command, soon after returned to the United States accompanied by a number of the disarmed Texans. Some of these disarmed Texans now left for Texas, while about sixty or seventy men, under Colonel Warfield, organized and started in pursuit of the caravan which had escaped the Texans by the interference of the U. S. army, but failing to overtake it, returned to Texas. As a consequence of this trouble with the avenging Texans, General Santa Ana, by decree, closed the northern ports of Mexico to foreign commerce, which for the time

being terminated the trade over the Santa Fe Trail. By decree of March 31, 1844, the ports were reopened and about ninety wagons, with perhaps \$200,000 worth of merchandise, the caravan employing about two hundred men, crossed the plains to Santa Fe during the summer and fall of that year. The town of Mora had been burned by some Texans, under Warfield, prior to the capture of Snively's command by Captain Cooke.

CHAPTER IV

THE SANTA FE TRAIL

The Early Traders.—A subject of great interest is the story of the old Santa Fe Trail, the great highway over which was carried the commerce of the prairies.

In the early part of the nineteenth century the tide of western immigration had reached the valleys of the Mississippi and Missouri. Stories of the northern provinces of New Spain, the inhabitants, their condition, their commercial and industrial needs, were brought to the western merchants and traders by the trappers, plainsmen and mountaineers. Although it was known from the trappers that the Spanish authorities in New Mexico did not look with favor upon overland commercial relations with the people of the United States, the experience of Major Zebulon M. Pike, who was imprisoned at Santa Fe, seems only to have served to whet the American appetite for trade and even conquest.

The facts surrounding the beginning of the Santa Fe trade are somewhat enveloped in mystery. The first expedition of which exists any account was that of Mallet brothers, who, in 1739, with six companions, set out from the French settlements on the Mississippi for the Spanish settlements of New Mexico, arriving in Santa Fe in July, 1739. In

the spring of the following year they made the return journey. Another expedition, made for purposes of trade only, was made prior to 1763, the exact date not being known.

Spaniards Make War on American Traders.—

The first frontier trading post known to have been established in Colorado, then part of New Mexico, was near the present site of Pueblo, and was owned by some Frenchmen from Louisiana. The Spaniards deemed this an infringement of their privileged rights, procured the imprisonment of the Mississippi adventurers, and the seizure of their effects, and demanded punishment and confiscation. The cause was decided in Havana, in favor of the Frenchmen, their goods restored to them, and they were liberated on the ground that the store in question was within the boundaries of Louisiana.

The second trading expedition to Santa Fe was that of William Morrison, of Kaskaskia, Illinois, who sent one Jean Baptiste La Lande, a French Creole, to find his way thither and carry with him a small stock of goods with the purpose of ascertaining what sort of market existed in the provinces of northern Mexico. La Lande reached Santa Fe in the summer of 1804. The next year after the coming of La Lande to Santa Fe, an American hunter and trapper arrived in the New Mexican capital. His name was James Purcell. Major Pike declares him to have been the first American to arrive in Santa Fe.

Pike gave to the people of the United States the first information of a reliable character concern-

ing the conditions existing in northern Mexico, and his expedition unquestionably was the means of inducing traders to come to New Mexico in quest of profitable returns in business ventures.

The Spaniards were very jealous of the activities of the Americans, thinking that their own government was being imperiled thereby. Consequently, in November, 1812, when an expedition of twelve men, headed by Robert McKnight, James Baird, and Samuel Chambers, crossed the plains and reached Santa Fe, they were arrested by the Spanish authorities, their goods confiscated, and they were held as prisoners at Durango and Chihuahua until 1822, when they were released by order of Iturbide. Holding to this policy, another party, under Chouteau and De Mun, was arrested in 1815, their goods confiscated, and they were held as prisoners for some months, when they were released, but their goods were not returned to them.

William Becknell Heads Successful Trading Expedition to Santa Fe.—Captain William Becknell, of Missouri, was the real founder of the commerce of the prairies. It was he who took the first successful trading expedition to Santa Fe. In 1821, with four companions, Captain Becknell crossed the plains from Franklin, Missouri, and notwithstanding the small amount of merchandise carried, they realized very handsome profits therefrom. They gave glowing accounts of the possibilities of trade with Santa Fe upon their return to Missouri.

From this time on the traffic over the Santa Fe

Trail was of increasing importance. Stations were established at points where water could be obtained for the animals. The route followed the Arkansas River to a point near La Junta, thence south through Taos to Santa Fe; afterwards the Cimarron route was established, which made the distance much less from the Arkansas River to Santa Fe.

CHAPTER V

WAR WITH MEXICO

The City of Santa Fe.—New Mexico's capital, at the time of the war with Mexico, was a place of about five thousand inhabitants. During this period in the history of New Mexico, the great majority of the people lived in towns or villages; there was practically no country population, a condition almost necessary for the protection of the settlers from the raids of the savages, by whom they were surrounded. Santa Fe, the most pretentious of all the towns, was very irregularly laid out; most of the streets were no better than highways traversing scattered settlements, interspersed here and there with corn and wheat fields. The only attempt at architectural compactness was found in the buildings surrounding the plaza, all of which were shaded by portals of the rudest description. The buildings around the plaza comprised the Palacio, the customs house, barracks, which was connected with the jail; the Casa Consistorial of the alcaldes, the Capilla de los Soldados, some private residences, and the stores occupied by the American traders.

In the old days the plaza was the place of promenade and the market place. The principal stations for the public market were near the western end of

the palace, but in the plaza. Here the farmers sold their products, and the hunters their game, all of which was in great demand as a food supply for the city.

In suavity of manners the Mexican was without a superior; this is a characteristic of all classes. Schools were few and illiteracy was common. The Mexican was neither farmer nor craftsman, and few entered the professions.

The United States Invades Mexican Territory.—On May 13th, 1846, President James K. Polk, by proclamation, announced the existence of war between the United States and Mexico.

On August 2d, 1846, Captain Philip St. George Cooke was sent to Santa Fe with an escort, nominally as an ambassador, but really for the purpose of escorting James Magoffin, who was the real emissary on the part of the American government, entrusted with a secret mission and having full instructions from the President of the United States.

Arriving at Santa Fe he was received by Armijo, who, after some parley, concluded to send a commissioner with Cooke to General Kearny, who was in command of an army of invasion coming from Missouri, and they set out the next day.

Judging by subsequent events Magoffin proved himself an astute and convincing emissary. Notwithstanding the fact that Armijo had previously published and sent into all parts of the territory a proclamation calling for a volunteer army to meet the invader, and the response to this call was flatter-

ing, Armijo, when the crucial moment arrived, deserted his post at Apache Pass, near Canyoncito, and fled to Mexico.

Kearny's Expedition.—With nothing to hinder his progress, Kearny advanced to Las Vegas, where he administered the oath of allegiance to the officials, then on to Santa Fe, through Apache Pass, where Armijo had stationed his forces. Finding no opposition, Kearny determined to push on to Santa Fe and plant the colors before sundown. Before nightfall the entire army was within the city of Santa Fe.

Kearny administered the oath of allegiance to the New Mexican officials, named officers for civil government, promulgated a code of laws, and departed to California, September 22, 1846.

Ten days after the departure of Gen. Kearny, Colonel Sterling Price arrived in Santa Fe with his regiment of Missouri volunteers.

Murder of Governor Bent.—Kearny had no sooner left the territory than rumors of intended revolt among the natives were heard. This disaffection among the natives finally culminated in the revolution of Taos, the assassination of Governor Bent, and many other prominent officials, as well as families of settlers. Colonel Price sent his forces against the insurgents, and, after much severe fighting, compelled them to submit to the new government. The instigators of this rebellion were captured, tried by courtmartial, sentenced to death, and executed at Taos.

Treaty of Guadalupe Hidalgo.—Hostilities continued during the two succeeding years. The war closed with the treaty of Guadalupe Hidalgo, which was ratified May 30, 1848, and was proclaimed at Santa Fe in August. Under this treaty New Mexico became a part of the United States, and choice of citizenship was given to the New Mexicans of either the United States or of Mexico. New Mexico was made a territory in 1850.

CHAPTER VI

NEW MEXICO A TERRITORY OF THE UNITED STATES

New Mexico Becomes a Territory of the United States.—The organic law of the territory of New Mexico—the act of September 9, 1850—was similar to the acts of congress by which other territories had been created and organized. This act determined the northern and western boundaries of the state of Texas and provided for a relinquishment to the United States of all territory exterior to the same. The state of Texas was paid ten million dollars. The territory, as organized in 1850, included the New Mexico and Arizona of today, with a small portion of Colorado.

The First Governor.—James S. Calhoun, who had been in New Mexico since July, 1849, acting as Indian agent, was the first governor of the territory subsequent to the military occupation period. He filled this office with great credit to himself, furnishing to the government much valuable information relative to the Indians of the Southwest. During his incumbency, the marauding savages were very troublesome. The governor was overwhelmed with requests for protection from citizens who were suffering from Indian raids, and without money in the territorial treasury, without ammunition, with-

out authority to call out the militia, and without the co-operation of the military authorities of the territory, he was sadly embarrassed and disquieted, which was greatly augmented by the friction existing between the military and civil authorities.

Military Posts Established.—Several military posts were established about this time in different parts of the territory. Fort Defiance, in the heart of the Navajo country; Fort Union, in Mora county, and Fort Sumner, in the Comanche country, to which place the Apaches and Navajos were removed in later years by General J. H. Carleton.

Owing to the fact that treaties with the Indians were ineffectual, since the Indians broke these treaties whenever it suited their purpose, General Carleton, in 1863, at the time in command of the Department of New Mexico, decided upon a war of extermination, all women and children to be taken captive unless the Indians surrendered and consented to be removed to the Bosque Redondo at Fort Sumner. The result was the death of so many warriors that the Indians came in and surrendered and were taken under guard to Fort Sumner, where they were compelled to work, as that was the condition upon which they received government aid. The removal of these Indians to Fort Sumner was accomplished under the immediate command of Col. Kit Carson.

Many of the Indians escaped from this reservation, however, and continued to create havoc with the settlers. Forces of soldiers were always in the field giving chase to some recalcitrant party of

savages, and many long years passed before the murderous Apache was completely subdued. The Navajo had long before consented to become a farmer and stock raiser, in which occupations he is a notable success.

A treaty was concluded between the United States and Mexico by James Gadsden in 1853. Under this treaty the boundary line, fixed by the treaty of 1848, was moved southward so as to give to the United States, for a consideration of ten million dollars, all of the territory in the Arizona of today south of the Gila river. A portion of the Mesilla valley cities was also within the territory ceded. By this treaty the United States was much the gainer, since the settlement of the boundary dispute was satisfactory, and a route for a railroad on American soil to the Pacific was obtained.

Education.—Education up to this time, so far as concerned the masses of the people, made no headway. Owing to the continued depredations of hostile Indians it was impossible to maintain schools in the outlying districts or settlements. There were a few private schools, four colleges, and one or two academies, all controlled by the church. Public sentiment was opposed to educating the peon class, as they were called. When Rt. Rev. J. B. Lamy came to Santa Fe, he established day and boarding schools, which was a great advance in the school system of the territory.

CHAPTER VIII

THE CHURCH IN NEW MEXICO

The Church of Catholic Missionaries.—At the time of the Mexican war the Archbishopric of Baltimore was the only metropolitan see in the United States. The provincial councils of the Church were attended by the bishops of sees which had been created within the limits of the old diocese of New Orleans. About two months after the conquest of New Mexico by General Kearny, St. Louis was made a metropolitan see. New Mexico had not yet become a territory of the United States. Subsequent, however, to the execution and signing of the treaty of Guadalupe Hidalgo, the Rt. Rev. Joseph Anthony Laureano de Zubiria, who had twice before visited New Mexico, made a third visitation in the month of October, 1850. Believing that the time had come when their faith was exposed to many dangers, the good bishop urged the Catholics to restore their dilapidated churches and maintain in proper Catholic manner the true worship of God, to uphold the most holy Catholic and only true religion midst those who professed heterodox creeds, who by the liberal system of the existing government had now full power to enter and reside in that part of his diocese.

The American hierarchy, recognizing this addition to the territory of the United States, and the presence within the newly acquired areas of a vast number of Catholics, made urgent appeal upon the Holy See for action in church matters in New Mexico. The Holy See at once erected New Mexico into a vicariate apostolic and named Rev. John B. Lamy, a priest of the diocese of Cincinnati, to take charge and reorganize religious affairs in the territory. On his visit the year previous, Bishop Zubiria had given the New Mexican clergy no intimation that the Holy See had in mind a canonical subdivision of the diocese of Durango, since he had known nothing of it himself, and for this reason they were unwilling to accept the authority of Bishop Lamy. Therefore, on horseback, with only a guide, he traveled from Santa Fe to Durango, Mexico, in order to properly notify Bishop Zubiria of the new order.

Returning from Durango, Bishop Lamy visited all the churches of his vicariate.

His great wisdom was now apparent. Twelve times in the interest of the people of his diocese he crossed the plains from Santa Fe to Kansas City and St. Louis. In 1852 he brought back a small colony of the sisters of Loretto. In the year 1853 he went to France and thence to Rome, where he made a personal appeal to the Pope for laborers, and a company of zealous French priests and ministerial students returned with him to America, arriving at Santa Fe in November, 1854. In 1859, Rev. Eguillon was sent to France for teachers, and in

October of that year arrived with four brothers of the Order of San Miguel, and nine priests and ecclesiastics. Then was begun St. Michael's College at Santa Fe. The first building was erected in 1879. The work of the Church since the American occupation period has constantly aided in the uplift of society.

Protestant Missionaries.—The missionaries of the Protestant denominations who came to New Mexico at the time of the American occupation found it almost impossible to make any progress. Labor as they would, it was not until the early sixties that any substantial results were obtained. The Baptist missionaries were the first to come to New Mexico. In July, 1849, Rev. Henry W. Reed, a Baptist missionary, arrived in Santa Fe, and opened a school where the English language was taught. The Baptists built the first Protestant church in New Mexico. This was at Santa Fe and was dedicated on the 15th day of January, 1854. The first Methodist missionary came to Santa Fe in 1850, held services for about two years, and abandoned the work. The Protestant Episcopal Church held its first service in Santa Fe in the summer of 1863. In 1868 the territory was visited by Bishop Randall of Colorado, New Mexico having been placed under his jurisdiction. The Episcopal Church organization was effected in the year 1874, when the general convention of the church created a missionary jurisdiction of New Mexico and Arizona and elected William Forbes Adams, D.D., of New Orleans, as the first

bishop. The Presbyterians sent their first missionary in the year 1851, but, as with other denominations, little was done until after the Civil War period.

CHAPTER IX

NEW MEXICO DURING THE CIVIL WAR

New Mexico Sympathizes With the North.—It has been stated by some historians that the New Mexicans, so far as they had any knowledge of the great questions which brought about the war of secession, were southern sympathizers. This is not true. There were a few of the more prominent families whose tendencies were in that direction, but whose feelings were quickly changed when the first invasion of New Mexico came from the state of Texas. The masses of the New Mexicans were Union men.

The Confederates hoped to occupy all the territory which had become a part of the United States by reason of the Mexican War and the Gadsden Purchase. The Secretary of War sent to New Mexico army officers who were to induce the officers then in New Mexico to lead their men into Texas and give them to the service of the rebellion. This the army, as well as the native New Mexican soldiers, refused to do, and the traitors were compelled to make haste to the Confederate lines for safety. The Confederates very promptly began operations. Lieutenant Colonel John R. Baylor, second mounted rifles, C. S. A., occupied Fort Bliss in the month of July, and later in the same month took possession

of the plaza of La Mesilla. Fort Fillmore, at this time, was commanded by Major Isaac Lynde, who professed to be loyal. While leading a portion of his command towards the plaza of Mesilla he fell in with a few of Colonel Baylor's men, and after a short skirmish, retreated to the fort. He gave orders on the 27th of July for the evacuation of that post and started towards Fort Stanton. He was pursued by Colonel Baylor and overtaken and ignominiously surrendered his entire command. For this cowardice or treachery, Lynde was dismissed from the army. He was afterwards restored to his rank.

Colonel Canby, in command of the department, was very active. He proceeded with the organization of the militia and volunteers for the inevitable contest, crippled throughout by lack of money, munitions, and supplies of all kinds, even without instructions from officials in Washington. Upon request from Colonel Canby, the governor of Colorado organized companies of volunteers, who rendered great service in the saving of New Mexico and the Southwest from Confederate domination.

The Confederate Invasion a Failure.—On the 18th of February, 1862, General Sibley gave battle to the Union army at Valverde, near Fort Craig, and after a severe conflict, the Federals were forced to retreat to the protection of Fort Craig. Sibley advanced to Albuquerque, which fell with small resistance. This success determined his advance upon Santa Fe, and his making that place his seat of

operations. However, the Colorado Volunteers, under Colonel Slough, were moving toward New Mexico rapidly. Hearing of Sibley's victory at Valverde, marching at double-quick, he engaged Sibley's forces at Apache Cañon, which resulted in a complete victory for the Colorado Volunteers, and virtually ended the Confederate invasion of New Mexico. In order to escape an engagement with Colonel Canby upon his retreat down the Rio Grande, General Sibley determined to take advantage of a bend of the river to the west, abandoned a part of his wagon train, baggage packed on mules, crossed the mountains with seven days' rations and escaped. Colonel Canby declined to pursue the retreating foe and returned to Santa Fe, leaving the southern district in command of Colonel Chivington of the Colorado Volunteers. In August, General James H. Carleton, with the California column, reached the Rio Grande, and on the 21st day of September of that year assumed command of the department.

The civil officials of the war period co-operated in every way possible with the commanding general of the military department of New Mexico, and civil affairs were conducted in a manner most commendable.

Attempts to organize a territorial government for that portion of New Mexico now included within the limits of Arizona were made in congress in 1857, and again in 1860, and in 1863 the organic act was passed, and officials named for the new territory of Arizona.

CHAPTER X

INDIAN CAMPAIGNS

Withdrawal of Troops During Civil War Leaves Inhabitants at Mercy of Indians.—The Confederate invasion under General Sibley made the withdrawal of all regular troops from the Indian country imperatively necessary and the New Mexican settlements were left exposed to the unrestrained depredations of the Apaches and Navajos. In the South, in the neighborhood of Fort Stanton, the ranches were entirely abandoned.

Upon taking command of the department in September, 1862, General Carleton's first move was against the Mescalero Apaches, against whom he sent Colonel Christopher Carson with five companies of New Mexican volunteers. His orders were to slay the men without parleying and bring in the women and children as prisoners. No treaties were to be made, and no terms accepted except unconditional surrender as prisoners of war. This policy was pursued against the Apaches, until in the spring of 1863 about four hundred Mescaleros had submitted, and were living in peace at the Bosque Redondo, while the other bands had been forced to suspend their raids, Fort West, at Pinos Altos in Grant county, having been garrisoned.

Indians Placed Upon Reservations.—In this same year, Colonel Carson was sent into the Northwest against the Navajos; the plan of removing all the Indians to Fort Sumner was developed. After July 20th, every Navajo was to be treated as hostile, and orders were repeatedly issued to kill every male capable of bearing arms. By following this policy consistently, the Indians were made to understand that their foe was at last in earnest, and that they must yield or be exterminated, and at the end of this year the Navajo wars were practically at an end and over seven thousand of the tribe were living at Bosque Redondo.

The Bosque Redondo reservation, as a means of civilizing the Indians, was a complete failure; however, as a military measure, for the purpose of demonstrating to the warlike Navajos the power of the American government, Carleton's policy of removal was wise. During 1867 an Indian peace commission was organized to consider the Indian situation, and to present some plan for the civilization of the Indians. The result of the investigations of this commission was that the Navajos were returned to their own country.

Meanwhile, the Mescalero Apaches had refused to stay at the Bosque with the Navajos, had left the reservation, and raided all southern New Mexico, in which they were joined by Chiricahuas. It was not until 1886, when Geronimo, the last of the great Apache chiefs, sent word to General Miles that he would surrender to the highest authority. Upon

receipt of this communication, General Miles arranged to meet him on the boundary line between Mexico and Arizona, when on being assured that his men would not be killed, Geronimo surrendered with all his warriors.

In 1867, the Jicarilla Apaches and Utes were placed on a reservation set aside for them in the Tierra Amarilla region, where the former now reside.

The Pueblo Indians, with the exception of the uprising of 1847, have given the government small trouble. They have remained the same peaceable, inoffensive, industrious, credulous, and superstitious people that they have always been. There has been small change in their character and primitive manner of living. In matters of education they have made considerable advances. Their lands have all been confirmed and patented to them and these are exempt from taxation. Although citizens of the United States they do not care to exercise the functions pertaining thereto. The general government has aided them materially in the construction of irrigation canals and reservoirs.

CHAPTER XI

SPANISH AND MEXICAN LAND GRANTS

Personal and Property Rights Guaranteed.—General Stephen W. Kearny, commanding the Army of the West, invading New Mexican territory, was the first officer of the United States to declare to the people of New Mexico that their rights of person and property would be held inviolable. In making this statement he was carrying out the instructions given him by the President of the United States.

The treaty of Guadalupe Hidalgo was ratified on May 30, 1848. After the lapse of a few years, owing to the great tide of immigration to the state of California and the consequent acquisition of lands by the American homeseeker, prospector, miner, and stock-raiser, the courts had before them questions involving the validity of titles to lands in that state. These questions finally came before the Supreme Court of the United States for determination and a long line of decisions emanated from that tribunal, declaring the right of the holders of Mexican titles to protection and recognition by the government.

After California became a state, through the influence of representatives from that state, an act was passed which made provision for the appointment of a tribunal composed of three commissioners, a secretary qualified to act as interpreter, and an attorney to represent the United States.

Land Claims.—New Mexico, however, with a voteless delegate in congress, could secure no such tribunal as was given to the state of California. The congress, on July 22, 1854, passed an act creating the office of surveyor general, by the terms of the eighth section of which it was made the duty of this officer, under instructions to be given by the secretary of the interior, to ascertain the origin, nature, character, and extent of all claims to land under the laws, usages, and customs of Spain and Mexico. When the surveyor general was appointed, and entered upon his duties, he found it practically impossible to carry out his instructions, owing to the fact that the holders of titles to lands declined to file any papers relative to their claims.

In March, 1891, an act was passed by congress by which was established a Court of Private Land Claims. The official existence of this tribunal was begun by its formal organization at Denver, Colorado, July 1, 1891, and ceased, by operation of law, June 30, 1904. This court had for its purpose the consideration and adjudication of the titles to all the lands claimed to have been derived by grants from Spain and Mexico situate within the area ceded by Mexico to the United States under the treaty of Guadalupe Hidalgo, and the treaty of 1853, known as the Gadsden Purchase, all within the present states of Colorado, New Mexico, Arizona, California, Nevada, Utah, and Wyoming. When the work assigned to this court was completed, there was no further reason for its existence.

CHAPTER XII

RECENT EVENTS

Railroads.—The advent of the railroads in New Mexico was the beginning of an era of permanent prosperity for the people of the territory. The first passenger train into New Mexico arrived at Otero, in Colfax county, February 12, 1879, and in five years more there had been constructed by three great railway corporations, one thousand two hundred and fifty-five miles of railway in New Mexico. The three railway companies first coming into New Mexico were the Atchison, Topeka and Santa Fe, the Southern Pacific, and the Denver and Rio Grande.

On March 10, 1881, all-rail connection across the continent via New Mexico and Arizona, was established by the junction at Deming of the two divisions of the Southern Pacific Railroad. Deming was also the point of junction of this road with the Santa Fe from the north, and the completion of these two roads placed New Mexico in communication by the shortest routes with the Pacific Coast, the Gulf, and the northern cities of the United States.

A number of the enterprising men who were formerly engaged in freighting across the plains to the Southwest, keeping pace with the advance of

railway construction, located their permanent places of business in New Mexico, contributing in a great measure to the industrial and commercial progress and importance of the territory.

This transition period between the old condition of affairs and the new era of progress and development witnessed a phenomenal increase in values and changes in business methods.

Capital.—The twenty-sixth legislative assembly convened at Santa Fe in February, 1884. During this term members of the assembly from Santa Fe and the north, were instrumental in the enactment of a law whereby a capital building commensurate with the dignity and demands of the growing territory should be erected at Santa Fe. At the same time the penitentiary buildings were provided for and constructed.

Public Schools.—At the opening of the twenty-ninth legislative assembly, the governor, in his message, called special attention to the necessity for a modern comprehensive public school system as being the most important matter for the consideration of the legislature. On February 12, 1891, a bill was passed which marked a new era in the educational history of New Mexico. Under the new order, educational matters received an impetus which has never been retarded.

New Mexico Furnishes Volunteers for U. S.—An event of great importance to the territory, as well as to the nation, was the organization of New Mexico's quota of volunteers for the war with Spain.

On April 23, 1898, President McKinley issued his proclamation calling for 125,000 troops to serve two years. On the same day New Mexico was asked what the territory could do in furnishing cavalry for service in Cuba. The governor of the state immediately replied that New Mexico's quota, which was limited to 340 men, would be ready for service and offered an additional number of cavalry and a battalion of mounted riflemen. Four troops were mustered at Santa Fe within eight days after the President's proclamation, and did valiant service during the Spanish-American War. They were a battalion of Roosevelt's Rough Riders.

Statehood.—For sixty years the people of New Mexico pleaded, agitated, and fought for admission as a state. New Mexico's last delegate in Congress, William H. Andrews, deserves the credit for the passage of the enabling act of 1910. On June 18, 1910, the bill was passed which made New Mexico a state.

On October 3, 1910, the constitutional convention began its task of formulating the organic law of the new state, and completed its labors November 21, 1910. The constitution was ratified at an election held on January 21, 1911, by the people of New Mexico, and in due time was approved by the President and Congress of the United States.

Constitution Adopted.—The deliberations of the constitutional convention were presided over by Charles A. Spiess. George W. Armijo was secretary. The total vote cast by the voters of the new state

upon the adoption of the instrument presented by the convention was 45,141, of which 31,742 were recorded in favor of and 13,399 against its adoption.

On February 24, 1911, the constitution was approved by President William H. Taft, who transmitted it to congress with a favorable message. On the 3rd of March the House adopted the constitution, but the Senate, the following day, adjourned, having adopted an amendment by which Arizona's proposed constitution was included with that of New Mexico.

The resolution as amended by the Senate did not reach the House until April, where its adoption or rejection was in the balance until the following July, when another resolution was adopted providing for methods by which the proposed constitution could be amended by the people of the new state. This was known as the Flood resolution, so named on account of its author, Henry D. Flood, a member of the House. On the tenth day of August the resolution with the Flood amendment was adopted by the Senate. The approval of this amended resolution was withheld by President Taft. It was finally approved by the Senate, with the elimination of the Arizona constitution, August 17th, and two days later by the House. On the 21st, it was signed by the President, who, on the 29th day of August, 1911, gave official notification to the governor of New Mexico of the fact.

First State Election.—The presidential notification having been duly received by New Mexico's

executive, William J. Mills, the governor, on August 30th, issued his proclamation calling for an election for state officers to be held on the 7th of November, 1911.

This election was held, the total vote cast for state officers being for governor: William C. McDonald, democrat, 31,036; Holm O. Bursum, republican, 28,019. For congressmen: George Curry, republican, 30,162; Harvey B. Fergusson, democrat, 29,999; Elfego Baca, republican, 28,836; Paz Valverde, democrat, 28,353. Of the remaining candidates, the republican party was successful for auditor, attorney general, commissioner of public lands, two members of the Supreme Court and two members of the corporation commission. The democratic party elected its candidates for lieutenant governor, treasurer, secretary of state, superintendent of public instruction and one member each of the supreme court and the corporation commission. The pluralities for the successful candidates of each party were very small, other than that of the candidate for the governorship.

What was known as the "Blue Ballot" amendment, provided for by the act of congress, relating to manner and methods of amending the constitution, was carried, the vote being 34,897 in favor of and 22,728 against its adoption.

On the 4th day of January, 1912, the result of the first state election was certified by Governor Mills to the President of the United States, who, on the 6th of January, issued his proclamation by which

New Mexico was admitted into the union of states as the forty-seventh.

On January 15, 1912, the new state government was formally inaugurated at Santa Fe, the event being celebrated with elaborate ceremonies.

The first state legislature met at Santa Fe, March 11, 1912, the Senate having as its constitutional presiding officer the lieutenant-governor-elect, Ezequiel C. de Baca. The House chose as its speaker Roman Liberato Baca, a member from the county of Santa Fe. On the 27th of March following, Thomas Benton Catron and Albert Bacon Fall, republicans, in joint session of the House and Senate, were elected to represent the state in the Senate of the United States and were seated by that body on the 2nd day of April, 1912. The short term in the Senate having fallen to Albert B. Fall, at the second session of the state legislature, in 1913, Senator Fall was again chosen to represent the state in the upper branch of the national congress.

LIST OF GOVERNORS OF NEW MEXICO, 1598-1914

UNDER SPAIN

Oñate	1598-1608
Peralta	1609-1620
Zotylo	1621-1629
De Silva	1630-1639
De Rosas	1640-1642
Arguello	1642
Valdez	1643
De Heredia	1644
Arguello	1645-1649
De Guzman, Ugarte and La Concha.....	1650-1652
Avila y Pacheco, Samaniego	1653
Mendizabal	1653-1660
Peñaloza	1661-1664
Villanueva, Medrano and Miranda.....	1665-1679
Treviño	1679
Otermin	1679-1683
Jironza de Cruzate	1683-1686
Reneros de Posada and Cruzate.....	1687-1691
De Vargas Zapata Lujan Ponze de Leon.....	1692-1696
Rodriguez y Cubero.....	1696-1703
De Vargas Zapata Lujan Ponze de Leon.....	1703-1704
Hurtado	1704-1705
Cuervo y Valdez	1705-1707
Chacón Medina Salazar y Villaseñor.....	1707-1712
Flores Mogollon	1712-1715
Martinez, Hurtado	1715-1718
Velarde y Cocio	1718-1721
Estrada y Austria, De Bustamante.....	1722-1731
Cruzat y Gongora.....	1731-1736
Olavide y Michalena	1736-1739

Mendoza	1739-1743
Codillos y Rabal.....	1743-1749
Veles Cachupin	1749-1754
Del Valle, Mendoza	1754-1760
Portillo Urrisola	1761-1762
Veles Cachupin	1762-1767
De Mendinueta	1767-1777
Trevol	1778
Bauptista de Anza	1778-1789
De la Concha	1789-1794
Chacón	1794-1805
Real Alencaster	1805-1808
Mainez	1808
Manrique	1808-1814
Mainez	1815-1817
Allande	1818
Melgares	1818-1822

UNDER MEXICO

Xavier Chávez, Vizcarra.....	1822-1823
Baca	1823
Narbonna, Armijo, Vizarra.....	1825-1827
Chávez	1828-1831
Abrëu	1831-1833
Sarracino, Ortiz, Chávez	1833-1834
Perez	1835-1837
Armijo	1838-1844
Martinez de Lejanza.....	1844-1845
Armijo, Vigil	1845-1846

UNDER THE UNITED STATES OF AMERICA

Military Government:

Stephen W. Kearny.....	1846
Charles Bent	1846-1847
Donaciano Vigil	1847-1848

J. M. Washington	1848-1849
John Munro	1849-1850

Territorial Government:

James S. Calhoun	1851-1852
John Greiner—secretary—acting	1852
William Carr Lane	1852-1853
David Merriwether	1853-1857
Abraham Rencher	1857-1861
Henry Connelly	1861-1866
Robert B. Mitchell	1866-1869
William A. Pile	1869-1871
Marsh Giddings.....	1871-1875
William G. Ritch—secretary—acting.....	1875
Samuel B. Axtell.....	1875-1878
Lewis Wallace	1878-1881
Lionel A. Sheldon	1881-1885
Edmund G. Ross.....	1885-1889
L. Bradford Prince.....	1889-1893
William T. Thornton.....	1893-1897
Miguel A. Otero, Jr.....	1897-1906
Herbert J. Hagerman.....	1906-1907
James Wallace Reynolds—secretary—acting.....	1907
George Curry	1907-1910
William J. Mills	1910-1911
William C. McDonald— <i>First State Governor</i>	1912—

TERRITORIAL DELEGATES IN CONGRESS

Messervy and Weightman.....	
José Manuel Gallegos.....	1853-1855
Miguel A. Otero, Sr.....	1856-1861
John S. Watts	1861-1863
Francisco Perea	1863-1865
J. Francisco Chávez	1865-1871
José Manuel Gallegos	1871-1873
Stephen B. Elkins	1873-1877
Trinidad Romero	1877-1879

Mariano S. Otero.....	1879-1881
Tranquilino Luna	1881-1883
Francisco A. Manzanares.....	1883-1885
Anthony Joseph	1885-1895
Thomas Benton Catron.....	1895-1897
Harvey B. Fergusson.....	1897-1899
Pedro Perea	1899-1901
Bernard S. Rodey	1901-1905
William H. Andrews.....	1905-1911

MEMBERS OF CONGRESS

George Curry	1911-1913
Harvey B. Fergusson.....	1911-1915

DECLARATION OF INDEPENDENCE

IN CONGRESS, JULY 4, 1776

THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES
OF AMERICA

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government; laying its foundation on such principles, and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies, and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries

and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining, in the meantime, exposed to all the dangers of invasions from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices; and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us, in many cases, of the benefits of trial by jury:

For transporting us beyond the seas to be tried for pretended offences:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate us in all cases whatsoever:

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is, at this time, transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun, with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, *free and independent states*; that they are absolved from all allegiance to the British crown, and that all political connection between them and the state of Great Britain is, and ought to be, totally dissolved; and that as *free and independent states*, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which *independent states* may of right do. And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK, and 54 other signers.

ARTICLES OF CONFEDERATION AND PERPETUAL UNION BETWEEN THE STATES

ARTICLE I.—The style of this confederacy shall be, “The United States of America.”

ART. II.—Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in congress assembled.

ART. III.—The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other against all force offered to or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

ART. IV.—The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states—paupers, vagabonds, and fugitives from justice, excepted—shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and egress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof respectively; provided that such restriction shall not extend so far as to prevent the removal of property, imported into any state, to any other state of which the owner is an inhabitant; provided also that no imposition, duties, or restrictions shall be laid by any state on the property of the United States, or either of them.

If any person be guilty of or charged with treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of

the governor or executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

ART. V.—For the more convenient management of the general interest of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in congress on the 1st Monday in November in every year, with a power reserved to each state to recall its delegates, or any of them, at any time within the year, and to send others, in their stead for the remainder of the year.

No state shall be represented in congress by less than 2 nor by more than 7 members; and no person shall be capable of being a delegate for more than 3 years in any term of 6 years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States in congress assembled, each state shall have one vote.

Freedom of speech and debate in congress shall not be impeached or questioned in any court, or place out of congress; and the members of congress shall be protected in their persons from arrests and imprisonments during the time of their going to and from, and attendance on, congress, except for treason, felony, or breach of the peace.

ART. VI.—No state, without the consent of the United States in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty with, any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign state;

nor shall the United States in congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation, or alliance whatever between them, without the consent of the United States in congress assembled; specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties which may interfere with any stipulations in treaties entered into by the United States in congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by congress to the courts of France and Sprin.

No vessels-of-war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary, by the United States in congress assembled, for the defence of such state or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as, in the judgment of the United States in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use in public stores a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No state shall engage in any war without the consent of the United States in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a revolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in congress assembled, unless such state be

infested by pirates; in which case vessels-of-war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in congress assembled shall determine otherwise.

ART. VII.—When land-forces are raised by any state for the common defence, all officers of or under the rank of colonel shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct; and all vacancies shall be filled up by the state which first made the appointment.

ART. VIII.—All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all lands within each state, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States in congress assembled shall from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the United States in congress assembled.

ART. IX.—The United States in congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the 6th Article; of sending and receiving ambassadors, entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever; of establishing rules for deciding in all cases what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated; of granting letters of marque and reprisal in times of peace, appointing

courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.

The United States in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction, or any other cause whatever; which authority shall always be exercised in the manner following: Whenever the legislative or executive authority or lawful agent of any state, in controversy with another, shall present a petition to congress, stating the matter in question, and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint, by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but, if they can not agree, congress shall name 3 persons out of each of the United States; and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to 13: and from that number not less than 7 nor more than 9 names, as congress shall direct, shall in the presence of congress be drawn out by lot; and the persons whose names shall be so drawn, or any 5 of them, shall be commissioners or judges to hear and finally determine the controversy; so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons which congress shall judge sufficient, or, being present, shall refuse to strike, the congress shall proceed to nominate 3 persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court, to be appointed in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or

defend their claim or cause, the court shall nevertheless proceed to pronounce sentence or judgment, which shall in like manner be final and decisive,—the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath, to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried. “well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection, or hope of reward”: provided also that no state shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions as they may respect such lands, and the states which passed such grants, are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall, on the petition of either party to the congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The United States in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states; fixing the standard of weights and measures throughout the United States; regulating the trade and managing all affairs with the Indians, not members of any of the States, provided that the legislative right of any State within its own limits be not infringed or violated; establishing and regulating post-offices from one state to another throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office; appointing all officers of the land-forces in the service of the United States, excepting regimental officers; appointing all the officers of the naval forces, and commission-

ing all officers whatever in the service of the United States; making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated "A committee of the states," and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction; to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses; to borrow money, or emit bills on the credit of the United States, transmitting every half-year to the respective states an account of the sums of money so borrowed or emitted; to build and equip a navy; to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding; and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them in a soldier-like manner, at the expense of the United States; and the officers and men so clothed, armed, and equipped shall march to the place appointed and within the time agreed on by the United States in congress assembled: But if the United States in congress assembled shall, on consideration of circumstances, judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed, and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same; in which case they shall raise, officer, clothe, arm, and equip as many of such extra number as they judge can be safely spared; and the officers and men so clothed, armed, and

equipped shall march to the place appointed, and within the time agreed on by the United States in congress assembled.

The United States in congress assembled shall never engage in a war; nor grant letters of marque and reprisal in time of peace; nor enter into any treaties or alliances; nor coin money, nor regulate the value thereof; nor ascertain the sums and expenses necessary for the defence and welfare of the United States, or any of them; nor emit bills, nor borrow money on the credit of the United States; nor appropriate money; nor agree upon the number of vessels-of-war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States in congress assembled.

The congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months, and shall publish the journal of their proceedings monthly, except such parts thereof, relating to treaties, alliances, or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request, shall be furnished with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

ART. X.—The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the United States in congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the United States assembled is requisite.

ART. XI.—Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of, this union; but no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

ART. XII.—All bills of credit emitted, moneys borrowed, and debts contracted, by or under the authority of congress before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United states, for payment and satisfaction whereof the said United States and the public faith are hereby solemnly pledged.

ART. XIII.—Every state shall abide by the determinations of the United States in congress assembled, on all questions which, by this confederation, are submitted to them. And the articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the United States, and be afterwards confirmed by the legislatures of every state.

And whereas it hath pleased the great Governor of the world to incline the hearts of the legislatures we respectively represent in congress to approve of, and to authorize us to ratify, the said articles of confederation and perpetual union, KNOW YE, that we, the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained: And we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in congress assembled on all questions which by the said confederation are submitted to them; and that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In witness whereof, we have hereunto set our hands in congress.

Done at Philadelphia, in the state of Pennsylvania, the 9th day of July, in the year of our Lord 1778, and in the 3d year of the Independence of America.

ORDINANCE OF 1787

BE IT ORDAINED by the United States in congress assembled, That the said territory, for the purposes of temporary government, be one district; subject, however, to be divided into two districts, as future circumstances may in the opinion of congress, make it expedient.

Be it ordained by the authority aforesaid, That the estates, both of resident and non-resident proprietors in the said territory, dying intestate, shall descend to, and be distributed among their children, and the descendants of a deceased child in equal parts; the descendants of a deceased child or grandchild, to take the share of their deceased parent in equal parts among them: And where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate, shall have in equal parts among them, their deceased parents' share; and there shall in no case be a distinction between kindred of the whole and half-blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district.—And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her, in whom the estate may be (being of full age) and attested by three witnesses;—and real estate may be conveyed by lease and release, or bargain and sale, signed, sealed, and delivered by the person being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper

magistrates, courts, and registers shall be appointed for that purpose; and personal property may be transferred by delivery; saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskias, Saint Vincent's, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Be it ordained by the authority aforesaid, That there shall be appointed from time to time, by congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by congress, he shall reside in the district, and have a freehold estate therein, in 1,000 acres of land while in the exercise of his office.

There shall be appointed from time to time, by congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in 500 acres of land, while in the exercise of his office; it shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department; and transmit authentic copies of such acts and proceedings, every six months, to the secretary of congress: There shall also be appointed a court to consist of three judges, any two of whom to form a court, who shall have a common law jurisdiction, and reside in the district, and have each therein a freehold estate in 500 acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

The governor and judges, or a majority of them, shall adopt and publish in the district, such laws of the original states, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to congress, from time to time; which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

The governor for the time being, shall be commander-in-chief

of the militia, appoint and commission all officers in the same, below the rank of general officers; all general officers shall be appointed and commissioned by congress.

Previous to the organization of the general assembly, the governor shall appoint such magistrates and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same: After the general assembly shall be organized, the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof—and he shall proceed from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles shall have been extinguished into counties and townships, subject, however, to such alterations as may thereafter be made by the legislature.

So soon as there shall be 5,000 free male inhabitants, of full age, in the district, upon giving proof thereof to the governor, they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly; provided that for every 500 free male inhabitants, there shall be one representative, and so on progressively with the number of free male inhabitants shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: provided that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and in either case shall likewise hold in his own right, in fee simple, 200 acres of land within the same; provided also,

that a freehold in fifty acres of land in the district, having been a citizen of one of the states, and being resident in the district, or the like freehold and two years residence in the district shall be necessary to qualify a man as an elector of a representative.

The representatives thus elected, shall serve for the term of two years (3); and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

The general assembly, or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of 5 members, to continue in office 5 years, unless sooner removed by congress; any 3 of whom to be a quorum: and the members of the council shall be nominated and appointed in the following manner, to-wit: As soon as representatives shall be elected, the governor shall appoint a time and place for them to meet together, and, when met, they shall nominate 10 persons, residents in the district, and each possessed of a freehold in 500 acres of land, and return their names to congress; 5 of whom congress shall appoint and commission to serve as aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate 2 persons, qualified as aforesaid, for each vacancy, and return their names to congress; one of whom congress shall appoint and commission for the residue of the term. And every 5 years, 4 months at least before the expiration of the time of service of the members of council, the said house shall nominate 10 persons, qualified as aforesaid, and return their names to congress; 5 of whom congress shall appoint and commission to serve as members of the council 5 years, unless sooner removed. And the governor, legislative council, and house of representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill or legis-

lative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue and dissolve the general assembly, when in his opinion it shall be expedient.

The governor, judges, legislative council, secretary, and such other officers as congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the president of congress, and all other officers before the governor. As soon as a legislature shall be formed in the district the council and the house assembled, in one room, shall have authority by joint ballot, to elect a delegate to congress, who shall have a seat in congress, with a right of debating, but not of voting during this temporary government.

And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory: to provide also for the establishment of states, and permanent government therein, and for their admission to a share in the federal councils on an equal footing with the original states, at as early periods as may be consistent with the general interest.

It is hereby ordained and declared, by the authority aforesaid, That the following articles shall be considered as articles of compact between the original states, and the people and states in the said territory, and forever remain unalterable, unless by common consent, to-wit:

1. No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship or religious sentiments, in the said territory.

2. The inhabitants of the said territory shall always be entitled to the benefits of the writ of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be bailable, unless for capital offenses, where the proof shall be evident, or the

presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary, for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made, or have force in the said territory, that shall in any manner whatever interfere with, or affect private contracts or engagements, bona fide, and without fraud previously formed.

3. Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights and liberty, they never shall be invaded or disturbed, unless in just and lawful wars authorized by congress; but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

4. The said territory, and the states which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in congress assembled, conformable thereto. The inhabitants and settlers in the said territory, shall be subject to pay a part of the federal debts, contracted or to be contracted, and a proportional part of the expenses of government, to be apportioned on them by congress, according to the same common rule and measure, by which apportionments thereof shall be made on the other states; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts or new states, as in the

original states, within the time agreed upon by the United States in congress assembled. The legislatures of those districts or new states, shall never interfere with the primary disposal of the soil by the United States in congress assembled, nor with any regulations congress may find necessary for securing the title in such soil to the bona fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and St. Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory, as to the citizens of the United States, and those of any other states that may be admitted into the confederacy, without any tax, impost, or duty therefor.

5. There shall be formed in the said territory not less than 3, nor more than 5 states; and the boundaries of the states, as soon as Virginia shall alter her act of cession, and consent to the same, shall become fixed and established as follows, to wit: The western state in the said territory shall be bounded by the Mississippi, the Ohio and Wabash rivers; a direct line drawn from the Wabash and Post Vincents due north to the territorial line between the United States and Canada; and by the said territorial line to the lake of the Woods and Mississippi. The middle state shall be bounded by the said direct line, the Wabash from Post Vincents to the Ohio; by the Ohio, by a direct line drawn due north from the mouth of the Great Miami, to the said territorial line, and by the said territorial line. The eastern state shall be bounded by the last mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: provided, however, and it is further understood and declared, that the boundaries of these 3 states, shall be subject so far to be altered, that if congress shall hereafter find it expedient, they shall have authority to form 1 or 2 states in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of lake Michigan. And whenever any of the said states, shall have 60,000 free

inhabitants therein, such state shall be admitted, by its delegates, into the congress of the United States, on an equal footing with the original states, in all respects whatever; and shall be at liberty to form a permanent constitutional and state government: provided the constitution and government so to be formed, shall be republican, and in conformity to the principles contained in these articles; and so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the state than 60,000.

6. There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original states, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby repealed and declared null and void.

THE CONSTITUTION OF THE UNITED STATES OF AMERICA

PREAMBLE

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

ARTICLE I—Legislative

SECTION 1—CONGRESS

1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SECTION 2.—HOUSE OF REPRESENTATIVES

1. *Election*—The house of representatives shall be composed of members chosen every 2d year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

2. *Qualifications*—No person shall be representative who shall not have attained the age of 25 years, and been 7 years a citizen of the United States, and who shall not when elected, be an inhabitant of that state in which he shall be chosen.

3. *Apportionment*—Representatives and direct taxes shall be apportioned among the several states which may be included within this union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and

excluding Indians not taxed, $\frac{3}{5}$ of all other persons. The actual enumeration shall be made within 3 years after the first meeting of the congress of the United States, and within every subsequent term of 10 years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every 30,000, but each state shall have at least 1 representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose 3; Massachusetts, 8; Rhode Island and Providence Plantations, 1; Connecticut, 5; New York, 6; New Jersey, 4; Pennsylvania, 8; Delaware, 1; Maryland, 6; Virginia, 10; North Carolina, 5; South Carolina, 5; and Georgia, 3.

4. *Vacancies*—When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

5. *Officers*—The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SECTION 3—SENATE

[This paragraph has been amended. See Article XVII of the amendments: 1. *Election*—The senate of the United States shall be composed of 2 senators from each state, chosen by the legislature thereof, for six years; and each senator shall have 1 vote.]

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into 3 classes. The seats of the senators of the 1st class shall be vacated at the expiration of the 2d year, of the 2d class at the expiration of the 4th year, and of the 3d class at the expiration of the 6th year, so that $\frac{1}{3}$ may be chosen every 2d year; and if vacancies happen, by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies. See Amendment XVII.

3. *Qualifications*—No person shall be a senator who shall not have attained the age of 30 years, and been 9 years a citizen

of the United states, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

4. *Officers*—The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

5. The senate shall choose their other officers, and also a president *pro tempore* in the absence of the vice-president, or when he shall exercise the office of president of the United States.

6. *Impeachment*—The senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of $\frac{2}{3}$ of the members present.

7. Judgments in cases of impeachments shall not extend further than removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 4—ELECTIONS AND MEETINGS OF CONGRESS

1. *Elections*—The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the place of choosing senators.

2. *Meetings*—The congress shall assemble at least once in every year; and such meeting shall be on the 1st Monday in December, unless they shall by law appoint a different day.

SECTION 5—ORGANIZATION

1. *Quorum*—Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized

to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

2. *Rules*—Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of $\frac{2}{3}$, expel a member.

3. *Journal*—Each house shall keep a journal of its proceedings and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of $\frac{1}{5}$ of those present, be entered on the journal.

4. *Adjournment*—Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than 3 days, nor to any other place than that in which the two houses shall be sitting.

SECTION 6—MEMBERS AS INDIVIDUALS

1. *Pay and privileges*—The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

2. *Prohibitions*—No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

SECTION 7—REVENUE BILLS; THE VETO

1. *Revenue bills*—All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

2. *The veto*—Every bill which shall have passed the house of representatives and the senate shall, before it become a law, be presented to the president of the United States; if he approve, he shall sign it; but if not he shall return it, with his objections, to that house in which it shall have originated; who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, $\frac{2}{3}$ of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and, if approved by $\frac{2}{3}$ of that house, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within 10 days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law.

3. Every order, resolution or vote, to which the concurrence of the senate and the house of representatives may be necessary (except on a question of adjournment), shall be presented to the president of the United States; and, before the same shall take effect, shall be approved by him; or, being disapproved by him shall be repassed by $\frac{2}{3}$ of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SECTION 8—LEGISLATIVE POWERS

The congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises; to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States.

2. To borrow money on the credit of the United States.

3. To regulate commerce with foreign nations, and among the several states, and with the Indian tribes.

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures:

6. To provide for the punishment of counterfeiting the securities and current coin of the United States.

7. To establish post-offices and post-roads.

8. To promote the progress of science and useful arts, by securing for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.

9. To constitute tribunals inferior to the supreme court.

10. To define and punish piracies and felonies committed on the high seas, and offences against the law of nations.

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.

12. To raise and support armies; but no appropriation of money to that use shall be for a longer term than 2 years.

13. To provide and maintain a navy.

14. To make rules for the government and regulation of the land and naval forces.

15. To provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions.

16. To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the states respectively the appointment of the officers and the authority of training the militia according to the discipline prescribed by congress.

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding 10 miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States; and to exercise like authority over all places purchased by the con-

sent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SECTION 9—PROHIBITIONS UPON THE UNITED STATES

1. The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year 1808; but a tax or duty may be imposed on such importation not exceeding \$10 for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require it.

3. No bill of attainder, or ex post facto law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on any articles exported from any state. No preference shall be given by any regulation of commerce or revenue to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear or pay duties in another.

6. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

7. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office or title of any kind whatever, from any king, prince, or foreign state.

SECTION 10—PROHIBITIONS UPON THE STATES

1. *Absolute*—No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

2. *Except by consent of congress*—No state shall, without consent of congress, lay any imports or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

ARTICLE II—Executive

SECTION 1—THE PRESIDENT AND VICE-PRESIDENT

1. *Election*—The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of 4 years; and together with the vice-president chosen for the same term, be elected as follows:

2. Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The following clause has been superseded by Article XII of the amendments:

3. The electors shall meet in their respective states, and vote by ballot for 2 persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed, and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then, from the 5 highest on the list, the said house shall, in like manner, choose the president. But in choosing the president, the vote shall be taken by states, the representation from each state having 1 vote: a quorum for this purpose shall consist of a member or members from $\frac{2}{3}$ of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain 2 or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.

4. The congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. *Qualifications*—No person, except a natural born citizen or a citizen of the United States at the time of the adoption of this constitution shall be eligible to the office of president; neither shall any person be eligible to that office who shall not have attained to the age of 35 years, and been 14 years a resident within the United States.

6. *Vacancy*—In case of the removal of the president from office, or of his death, resignation or inability to discharge the powers and duties of said office, the same shall devolve on the vice-president; and the congress may, by law, provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then

act as president, and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

7. *Salary*—The president shall, at stated times, receive for his services a compensation which shall neither be increased or diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

8. *Oath*—Before he enter on the execution of his office, he shall take the following oath of affirmation:

“I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States; and will, to the best of my ability, preserve, protect and defend the constitution of the United States.”

SECTION 2—POWERS OF THE PRESIDENT

1. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardon for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the senate, to make treaties, provided $\frac{2}{3}$ of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate shall appoint, ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

3. The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SECTION 3

1. He shall, from time to time, give to the congress information of the state of the union, and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them; and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SECTION 4—IMPEACHMENTS

1. The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery or other higher crimes and misdemeanors.

ARTICLE III—Judicial

SECTION 1—COURTS

1. The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

SECTION 2—JURISDICTION

1. *Extent*—The judicial power shall extend to all cases in law and equity arising under this constitution, the laws of the United States and treaties made, or which shall be made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States

shall be a party; to controversies between 2 or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof, and foreign states, citizens or subjects.

2. *Original and appellate*—In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

3. *Criminal*—The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

SECTION 3—TREASON

1. *Definition and proof*—Treason against the United States shall consist only in levying war against them or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of 2 witnesses to the same overt act, or on confession in open court.

2. *Limit*—The congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

ARTICLE IV—Relations of states

SECTION 1—PUBLIC RECORDS

1. Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state; and the congress may, by general laws, prescribe the

manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SECTION 2—RIGHTS OF CITIZENS

1. *In other states*—The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

2. *Extradition*—A person charged in any state with treason, felony or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

3. *A relic of slavery*—No person held to service or labor in one state under the laws thereof, escaping into another shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered upon claim of the party to whom such service or labor may be due.

SECTION 3—NEW STATES AND TERRITORIES

1. *New states*—New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of 2 or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

2. *Territories*—The congress shall have power to dispose of, and make all needful rules and regulation respecting, the territory or other property belonging to the United States, and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SECTION 4—NATIONAL PROTECTION

1. The United States shall guarantee to every state in this union a republican form of government, and shall protect each of them against invasion; and, on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

ARTICLE V—Amendments

1. The congress, whenever $\frac{2}{3}$ of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of $\frac{2}{3}$ of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution when ratified by the legislatures of $\frac{3}{4}$ of the several states, or by conventions of $\frac{3}{4}$ thereof, as the one or the other mode of ratification may be proposed by congress; provided that no amendment, which may be made prior to the year 1808, shall in any manner affect the 1st and 4th clauses in the 9th section of the 1st article, and that no state without its consent, shall be deprived of its equal suffrage in the senate.

ARTICLE VI—Sundry provisions

1. *National debts*—All debts contracted and engagements entered into before the adoption of this constitution shall be as valid against the United States under this constitution, as under the confederation.

2. *National law supreme*—This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding.

3. *Oaths*—The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

ARTICLE VII—Establishment

1. The ratification of the conventions of 9 states shall be sufficient for the establishment of this constitution between the states so ratifying the same.—*Constitution ratified by states, 1787-90.*

AMENDMENTS

I—Freedom of religion, speech and petition

Congress may make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.—(1791).

II—Arms

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.—(1791).

III—Quartering of soldiers

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war but in a manner to be prescribed by law.—(1791).

IV—Search warrants

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.—(1791).

V—Criminal proceedings

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be a witness against himself, nor be deprived of life, liberty or property, without due process of law; nor shall private property be taken for public use without just compensation.—(1791).

VI—Criminal proceedings

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.—(1791).

VII—Trial by jury

In suits at common law, where the value in controversy shall exceed \$20, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.—(1791).

VIII—Excessive bail and punishment

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.—(1791).

IX—Rights not named

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.—(1791).

X—Powers reserved by the states

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.—(1791).

XI—Suits against states

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.—(1798).

XII—Election of president

1. The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves. They shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding 3, on the list of those voted for

as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from $\frac{2}{3}$ of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of the choice shall devolve upon them, before the 4th day of March next following, then the vice-president shall act as president as in the case of the death or other constitutional disability of the president.

2. The person having the greatest number of votes as vice-president shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the 2 highest numbers on the list the senate shall choose the vice-president. A quorum for the purpose shall consist of $\frac{2}{3}$ of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of president shall be eligible to that of vice-president of the United States.—(1804).

XIII—Slavery abolished

Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.—(1865).

XIV—Civil rights

1. *Civil rights*—All persons born or naturalized in the United States subject to the jurisdiction thereof are citizens of the United States and of the state wherein they reside. No state

shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any state deprive any person of life, liberty or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

2. *Apportionment of representatives*—Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such state.

3. *Political disabilities*—No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who having previously taken an oath as a member of congress, or as an officer of the United States, or as any member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of $\frac{2}{3}$ of each house, remove such disability.

4. *Public debt*—The validity of the public debt of the United States authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection and rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for loss or emancipation of any

slave; but all such debts, obligations and claims shall be held illegal and void.

5. The congress shall have power to enforce, by appropriate legislation, the provisions of this article.—(1868).

XV—Suffrage

1. The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude.

2. The congress shall have power to enforce this article by appropriate legislation.—(1870).

XVI—Taxes

The congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

XVII—The Senate

The senate of the United States shall be composed of two senators from each state, elected by the people thereof, for six years; and each senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the senate, the executive authority of such state shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be so construed as to affect the election or term of any senator chosen before it becomes valid as part of the constitution.

THE CONSTITUTION OF THE STATE OF NEW MEXICO

ADOPTED BY THE CONSTITUTIONAL CONVENTION, HELD
AT SANTA FE, N. M., FROM OCTOBER 3 TO NOVEM-
BER 21, 1910, AND RATIFIED BY THE PEOPLE
JANUARY 21, 1911.

We, the people of New Mexico, grateful to Almighty God for the blessings of liberty, in order to secure the advantages of a state government, do ordain and establish this constitution.

ARTICLE I—Name and Boundaries

The name of this state is New Mexico, and its boundaries are as follows:

Beginning at the point where the thirty-seventh parallel of north latitude intersects the one hundred and third meridian west from Greenwich; thence along said one hundred and third meridian to the thirty-second parallel of north latitude; thence along said thirty-second parallel to the Rio Grande, also known as the Rio Bravo del Norte, as it existed on the ninth day of September, one thousand eight hundred and fifty; thence, following the main channel of said river, as it existed on the ninth day of September, one thousand eight hundred and fifty, to the parallel of thirty-one degrees forty-seven min-

utes north latitude; thence west one hundred miles to a point; thence south to the parallel of thirty-one degrees twenty minutes north latitude; thence along said parallel of thirty-one degrees twenty minutes, to the thirty-second meridian of longitude west from Washington; thence along said thirty-second meridian to the thirty-seventh parallel of north latitude; thence along said thirty-seventh parallel to the point of beginning.

ARTICLE II—Bill of Rights

Section 1. *Relation to the Union.*—The State of New Mexico is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.

Sec. 2. *Relation of government to the people.*—All political power is vested in and derived from the people; all government of right originates with the people, is founded upon their will and is instituted solely for their good.

Sec. 3. *Self-government.*—The people of the state have the sole and exclusive right to govern themselves as a free, sovereign and independent state.

Sec. 4. *Inalienable rights.*—All persons are born equally free, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of seeking and obtaining safety and happiness.

Sec. 5. *Treaty of Guadalupe Hidalgo.*—The rights, privileges and immunities, civil, political and relig-

ious, guaranteed to the people of New Mexico by the treaty of Guadalupe Hidalgo shall be preserved inviolate.

Sec. 6. *Right to bear arms.*—The people have the right to bear arms for their security and defense, but nothing herein shall be held to permit the carrying of concealed weapons.

Sec. 7. *Writ of habeas corpus.*—The privilege of the writ of habeas corpus shall never be suspended, unless, in case of rebellion or invasion, the public safety requires it.

Sec. 8. *Free and open elections.*—All elections shall be free and open, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

Sec. 9. *Subordination of military powers.*—The military shall always be in strict subordination to the civil power; no soldier shall in time of peace be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

Sec. 10. *Search warrant.*—The people shall be secure in their persons, papers, homes and effects, from unreasonable searches and seizures, and no warrant to search any place, or seize any persons or thing, shall issue without describing the place to be searched, or the persons or things to be seized, nor without a written showing of probable cause, supported by oath or affirmation.

Sec. 11. *Freedom of worship.*—Every man shall be free to worship God according to the dictates of his

own conscience, and no person shall ever be molested or denied any civil or political right or privilege on account of his religious opinion or mode of religious worship. No person shall be required to attend any place of worship or support any religious sect or denomination; nor shall any preference be given by law to any religious denomination or mode of worship.

Sec. 12. *Trial by jury*.—The right of trial by jury as it has heretofore existed shall be secured to all and remain inviolate. In all cases triable in courts inferior to the district court the jury may consist of six. The legislature may provide that verdicts in civil cases may be rendered by less than a unanimous vote of the jury.

Sec. 13. *Bail*.—All persons shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Sec. 14. *Presentment or indictment*.—No persons shall be held to answer for a capital, felonious or infamous crime unless on a presentment or indictment of a grand jury, except in cases arising in the militia when in actual service in time of war or public danger. In all criminal prosecutions the accused shall have the right to appear and defend himself in person, and by counsel to demand the nature and cause of the accusation; to be confronted with the witnesses against him; to have the charge and testimony interpreted to him in a language that he under-

stands; to have compulsory process to compel the attendance of necessary witnesses in his behalf, and a speedy public trial by an impartial jury of the county or district in which the offense is alleged to have been committed.

Sec. 15. *Right of accused*.—No person shall be compelled to testify against himself in a criminal proceeding, nor shall any person be twice put in jeopardy for the same offense; and when the indictment, information or affidavit upon which any person is convicted charges different offenses or different degrees of the same offense and a new trial is granted, the accused, he may not again be tried for an offense or degree of the offense greater than the one of which he was convicted.

Sec. 16. *Treason*.—Treason against the state shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Sec. 17. *Freedom of speech*.—Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true and was published with good motives and for justifiable ends, the party shall be acquitted.

Sec. 18. *Due process of law*.—No person shall be deprived of life, liberty or property without due process of law; nor shall any person be denied the equal protection of the laws.

Sec. 19. *Ex-post-facto law, etc.*—No ex-post-facto law, bill of attainder, nor law impairing the obligation of contracts shall be enacted by the legislature.

Sec. 20. *Eminent domain*.—Private property shall not be taken or damaged for public use without just compensation.

Sec. 21. *Imprisonment for debt*.—No person shall be imprisoned for debt in any civil action.

Sec. 22. *Aliens*.—No distinction shall ever be made by law between resident aliens and citizens in regard to the ownership or descent of property.

Sec. 23. *Rights retained*.—The enumeration in this constitution of certain rights shall not be construed to deny, impair or disparage others retained by the people.

ARTICLE III—Distribution of Powers

Section 1. The powers of the government of this state are divided into three distinct departments, the Legislative, Executive and Judicial, and no person or collection of persons charged with the exercise of powers properly belonging to one of these departments, shall exercise any powers properly belonging to either of the others, except as in this constitution otherwise expressly directed or permitted.

ARTICLE IV—Legislative Department

Section 1. *Senate and house.*—The legislative power shall be vested in a senate and house of representatives which shall be designated the Legislature of the State of New Mexico, and shall hold its sessions at the seat of government.

Referendum.—The people reserve the power to disapprove, suspend and annul any law enacted by the legislature, except general appropriation laws; laws providing for the preservation of the public peace, health or safety; for the payment of the public debt or interest thereon, or the creation or funding of the same, except as in this constitution otherwise provided; for the maintenance of the public schools or state institutions, and local or special laws. Petitions disapproving any law other those above excepted, enacted at the last preceding session of the legislature, shall be filed with the secretary of state not less than four months prior to the next general election. Such petitions shall be signed by not less than ten per centum of the qualified electors of each of three-fourths of the counties and in the aggregate by not less than ten per centum of the qualified electors of the state, as shown by the total number of votes cast at the last preceding general election. The question of the approval or rejection of such law shall be submitted by the secretary of state to the electorate at the next general election; and if a majority of the legal votes cast thereon, and not less than forty

per centum of the total number of legal votes cast at such general election, be cast for the rejection of such law, it shall be annulled and thereby repealed with the same effect as if the legislature had then repealed it, and such repeal shall revive any law repealed by the act so annulled; otherwise, it shall remain in force unless subsequently repealed by the legislature. If such petition or petitions be signed by not less than twenty-five per centum of the qualified electors under each of the foregoing conditions, and be filed with the secretary of state within ninety days after the adjournment of the session of the legislature at which such law was enacted, the operation thereof shall be thereupon suspended and the question of its approval or rejection shall be likewise submitted to a vote at the next ensuing general election. If a majority of the votes cast thereon and not less than forty per centum of the total number of votes cast at such general election be cast for its rejection, it shall be thereby annulled; otherwise, it shall go into effect upon publication of the certificate of the secretary of state declaring the result of the vote thereon. It shall be a felony for any person to sign any such petition with any name other than his own, or to sign his name more than once for the same measure, or to sign such petition when he is not a qualified elector in the county specified in such petition; provided, that nothing herein shall be construed to prohibit the writing thereon of the name of any person who cannot write, and who signs the same with his mark. The legislature shall enact laws

necessary for the effective exercise of the power hereby reserved.

Sec. 2. *Fulness of power.*—In addition to the powers herein enumerated, the legislature shall have all powers necessary to the legislature of a free state.

Sec. 3. *Number and eligibility of legislature.*—The senate shall consist of twenty-four, and the house of representatives of forty-nine members, who shall be qualified electors of their respective districts and residents of New Mexico for at least three years next preceding their election. Senators shall not be less than twenty-five years, and representatives not less than twenty-one years of age at the time of their election. No person shall be eligible to the legislature who, at the time of qualifying, holds any office of trust or profit under the state, county or national government, except notaries public and officers of the militia who receive no salary.

Sec. 4. *Election and term and vacancies.*—Members of the legislature shall be elected as follows: Senators for the term of four years, and members of the house of representatives for the term of two years. They shall be elected on the day provided by law for holding the general election of state officers or representatives in congress. Vacancies in either house shall be filled by an election at a time to be designated by the governor.

Sec. 5. *Session begins and ends.*—The first session of the legislature shall begin at twelve o'clock, noon, on the day specified in the proclamation of the governor. Subsequent sessions shall begin at 12 o'clock,

noon, on the second Tuesday of January next after each general election. No regular session shall exceed sixty days, except the first, which may be ninety days, and no special session shall exceed thirty days.

Sec. 6. *Special sessions*.—Special sessions of the legislature may be called by the governor, but no business shall be transacted except such as relates to the objects specified in his proclamation.

Sec. 7. *Quorum*.—Each house shall be judge of the election and qualifications of its own members. A majority of either house shall constitute a quorum to do business, but a less number may effect a temporary organization, adjourn from day to day, and compel the attendance of absent members.

Sec. 8. *Who shall call to order*.—The senate shall be called to order in the hall of the senate by the lieutenant-governor. The senate shall elect a president pro tempore who shall preside in the absence of the lieutenant-governor and shall serve until the next session of the legislature. The house of representatives shall be called to order in the hall of said house by the secretary of state. He shall preside until the election of a speaker, who shall be the member receiving the highest number of votes for that office.

Sec. 9. *Officers*.—The legislature shall choose its own officers and employes and fix their compensation, but the number and compensation shall never exceed the following: For each house, one chaplain at three dollars per day; one chief clerk and one sergeant-at-arms, each at six dollars per day; one assistant chief

clerk and one assistant sergeant-at-arms, each at five dollars per day; two enrolling clerks and two reading clerks, each at five dollars per day; six stenographers for the senate and eight for the house, each at six dollars per day; and such subordinate employes in addition to the above as they may require, but the aggregate compensation of such additional employes shall not exceed twenty dollars per day for the senate and thirty dollars per day for the house.

Sec. 10. *Compensation.*—Each member of the legislature shall receive as compensation for his services the sum of five dollars for each day's attendance during each session and ten cents for each mile traveled in going to and returning from the seat of government by the usual traveled route, once each session, and he shall receive no other compensation, perquisite or allowance.

Sec. 11. *The rights of each house.*—Each house may determine the rules of its procedure, punish its members or others for contempt or disorderly behavior in its presence, and protect its members against violence; and may, with the concurrence of two-thirds of its members, expel a member, but not a second time for the same act. Punishment for contempt or disorderly behavior or by expulsion shall not be a bar to a criminal prosecution.

Sec. 12. *Public sessions.*—All sessions of each house shall be public. Each house shall keep a journal of its proceedings, and the yeas and nays on any question shall, at the request of one-fifth of the members present, be entered thereon. The original thereof

shall be filed with the secretary of state at the close of the session, and shall be printed and published under his authority.

Sec. 13. *Privileges of members.*—Members of the legislature shall, in all cases except treason, felony and breach of the peace, be privileged from arrest during their attendance at the sessions of their respective houses, and on going to and returning from the same. And they shall not be questioned in any other place for any speech or debate or for any vote cast in either house.

Sec. 14. *Adjournment.*—Neither house shall, without the consent of the other, adjourn for more than three days, Sundays excepted; nor to any other place than that where the two houses are sitting; and on the day of the final adjournment they shall adjourn at twelve o'clock noon.

Sec. 15. *Process of legislating.*—No law shall be passed except by bill, and no bill shall be so altered or amended on its passage through either house as to change its original purpose. The enacting clause of all bills shall be: "Be it enacted by the legislature of the State of New Mexico." Any bill may originate in either house. No bill, except bills to provide for the public peace, health and safety, and the codification or revision of the laws, shall become a law unless it has been printed, and read three different times in each house, not more than two of which readings shall be on the same day, and the third of which shall be in full.

Sec. 16. *Bills.*—The subject of every bill shall

be clearly expressed in its title, and no bill embracing more than one subject shall be passed except general appropriation bills and bills for the codification or revision of the laws; but if any subject is embraced in any act which is not expressed in its title, only so much of the act as is not so expressed shall be void. General appropriation bills shall embrace nothing but appropriations for the expense of the executive, legislative and judiciary departments, interest, sinking fund, payments on the public debt, public schools, and other expenses required by existing laws; but if any such bill contain any other matter, only so much thereof as is hereby forbidden to be placed therein shall be void. All other appropriations shall be made by separate bills.

Sec. 17. *Vote on bills.*—No bill shall be passed except by a vote of a majority of the members present in each house, nor unless on its final passage a vote be taken by yeas and nays, and entered on the journal.

Sec. 18. *Revision of laws.*—No law shall be revised or amended, or the provisions thereof extended by reference to its title only; but each section thereof as revised, amended or extended shall be set out in full.

Sec. 19. *Limit on introduction of bills.*—No bill for the appropriation of money, except for the current expenses of the government, and no bill for the increase of compensation of any officer, or for the creation of any lucrative office, shall be introduced after the tenth day prior to the expiration of the session,

as provided herein, except by unanimous consent of the house in which it is introduced. No bill shall be acted upon at any session unless introduced at that session.

Sec. 20. *Enrolling and engrossing of bills.*—Immediately after the passage of any bill or resolution, it shall be enrolled and engrossed, and read publicly in full in each house, and thereupon shall be signed by the presiding officers of each house in open session, and the fact of such reading and signing shall be entered on the journal. No interlineation or erasure in a signed bill shall be effective, unless certified thereon in express terms by the presiding officer of each house quoting the words interlined or erased, nor unless the fact of the making of such interlineation or erasure be publicly announced in each house and entered on the journal.

Sec. 21. *Felonious handling of bills.*—Any person who shall, without lawful authority, materially change or alter, or make away with, any bill pending in or passed by the legislature, shall be deemed guilty of a felony and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one year nor more than five years.

Sec. 22. *Governor's legislative duty.*—Every bill passed by the legislature shall, before it becomes a law, be presented to the governor for approval. If he approve, he shall sign it, and deposit it with the secretary of state; otherwise, he shall return it to the house in which it originated, with his objections, which shall be entered at large upon the journal;

and such bill shall not become a law unless thereafter approved by two-thirds of the members present and voting in each house by yea and nay vote entered upon its journal. Any bill not returned by the governor within three days, Sundays excepted, after being presented to him, shall become a law, whether signed by him or not, unless the legislature by adjournment prevent such return. Every bill presented to the governor during the last three days of the session shall be approved or disapproved by him within six days after the adjournment, and shall be by him immediately deposited with the secretary of state. Unless so approved and signed by him such bill shall not become a law. The governor may in like manner approve or disapprove any part or parts, item or items, of any bill appropriating money, and such parts or items approved shall become a law, and such as are disapproved shall be void, unless passed over his veto, as herein provided.

Sec. 23. *When laws go into effect.*—Laws shall go into effect ninety days after the adjournment of the legislature enacting them, except general appropriation laws, which shall go into effect immediately upon their passage and approval. Any act necessary for the preservation of the public peace, health or safety, shall take effect immediately upon its passage and approval, provided it be passed by two-thirds vote of each house and such necessity be stated in a separate section.

Sec. 24. *Restrictions on legislative power.*—The legislature shall not pass local or special laws in any

of the following cases: Regulating county, precinct or district affairs; the jurisdiction and duties of justices of the peace, police magistrates and constables; the practice in courts of justice; the rate of interest on money; the punishment for crimes and misdemeanors; the assessment or collection of taxes or extending the time of collection thereof; the summoning and impanelling of jurors; the management of public schools; the sale or mortgaging of real estate of minors or others under disability; the change of venue in civil or criminal cases. Nor in the following cases: Granting divorces; laying out, opening, altering or working roads or highways, except as to state roads extending into more than one county, and military roads; vacating roads, town plats, streets, alleys or public grounds; locating or changing county seats, or changing county lines, except in creating new counties; incorporating cities, towns or villages or changing or amending the charter of any city, town or village; the opening or conducting of any election or designating the place of voting; declaring any person of age; chartering or licensing ferries, toll bridges, toll roads, banks, insurance companies, or loan and trust companies; remitting fines, penalties, forfeitures or taxes; or refunding money paid into the state treasury, or relinquishing, extending or extinguishing, in whole or in part, any indebtedness or liability of any person or corporation, to the state or any municipality therein; creating, increasing or decreasing fees, percentages or allowances of public officers; changing the laws of descent; granting to any cor-

poration, association or individual the right to lay down railroad tracks or any special or exclusive privilege, immunity or franchise, or amending existing charters for such purpose; changing the rules of evidence in any trial or inquiry; the limitation of actions; giving effect to any informal or invalid deed, will or other instrument; exempting property from taxation; restoring to citizenship any person convicted of an infamous crime; the adoption or legitimizing of children; changing the name of persons or places; and the creation, extension or impairment of liens. In every other case where a general law can be made applicable, no special law shall be enacted.

Sec. 25. *Laws forbidden.*—No law shall be enacted legalizing the unauthorized or invalid act of any officer, remitting any fine, penalty or judgment against any officer, or validating any illegal use of public funds.

Sec. 26. *Special concessions forbidden.*—The legislature shall not grant to any corporation or person, any rights, franchises, privileges, immunities or exemptions which shall not, upon the same terms and under like conditions, inure equally to all persons or corporations; no exclusive right, franchise, privilege or immunity shall be granted by the legislature or any municipality in this state.

Sec. 27. *Extra compensation forbidden.*—No law shall be enacted giving any extra compensation to any public officer, servant, agent or contractor after services are rendered or contract made; nor shall the compensation of any officer be increased or diminished

during his term of office, except as otherwise provided in this constitution.

Sec. 28. *Ineligibility of members.*—No member of the legislature shall, during the term for which he was elected, be appointed to any civil office in the state, nor shall he within one year thereafter be appointed to any civil office created, or the emoluments of which were increased during such term; nor shall any member of the legislature during the term for which he was elected nor within one year thereafter, be interested directly or indirectly in any contract with the state or any municipality thereof, which was authorized by any law passed during such term.

Sec. 29. *Laws authorizing indebtedness.*—No law authorizing indebtedness shall be enacted which does not provide for levying a tax sufficient to pay the interest, and for the payment at maturity of the principal.

Sec. 30. *Authority to pay out money.*—Except interest or other payments on the public debt, money shall be paid out of the treasury only upon appropriations made by the legislature. No money shall be paid therefrom except upon warrant drawn by the proper officer. Every law making an appropriation shall distinctly specify the sum appropriated and the object to which it is to be applied.

Sec. 31. *Appropriations to state controlled institutions only; exceptions.*—No appropriation shall be made for charitable, educational or other benevolent purposes to any person, corporation, association, institution or community, not under the absolute control

of the state, but the legislature may, in its discretion, make appropriations for the charitable institutions and hospitals, for the maintenance of which annual appropriations were made by the Legislative Assembly of nineteen hundred and nine.

Sec. 32. *Liabilities must be paid.*—No obligation or liability of any person, association or corporation, held or owned by or owing to the state, or any municipal corporation therein, shall ever be exchanged, transferred, remitted, released, postponed, or in any way diminished by the legislature, nor shall any such obligation or liability be extinguished except by the payment thereof into the proper treasury, or by proper proceeding in court.

Sec. 33. *Repeal of law does not exempt from prosecution.*—No person shall be exempt from prosecution and punishment for any crime or offenses against any law of this state by reason of the subsequent repeal of such law.

Sec. 34. *Right of either party must not be changed.*—No act of the legislature shall affect the right or remedy of either party, or change the rules of evidence or procedure, in any pending case.

Sec. 35. *Impeachment.*—The sole power of impeachment shall be vested in the house of representatives, and a concurrence of a majority of all the members elected shall be necessary to the proper exercise thereof. All impeachments shall be tried by the senate. When sitting for that purpose the senators shall be under oath or affirmation to do justice according to the law and the evidence. When the governor or

lieutenant-governor is on trial, the chief justice of the supreme court shall preside. No person shall be convicted without the concurrence of two-thirds of the senators elected.

Sec. 36. *Who may be impeached.*—All state officers and judges of the district court shall be liable to impeachment for crimes, misdemeanors and malfeasance in office, but judgment in such cases shall not extend further than removal from office and disqualification to hold any office of honor, trust or profit, or to vote under the laws of this state; but such officer or judge, whether convicted or acquitted, shall, nevertheless, be liable to prosecution, trial, judgment, punishment or civil action, according to law. No officer shall exercise any powers or duties of his office after notice of his impeachment is served upon him until he is acquitted.

Sec. 37. *Passes forbidden.*—It shall not be lawful for a member of the legislature to use a pass, or to purchase or receive transportation over any railroad upon terms not open to the general public; and the violation of this section shall work a forfeiture of the office.

Sec. 38. *Trusts, etc.*—The legislature shall enact laws to prevent trusts, monopolies and combinations in restraint of trade.

Sec. 39. *Bribery defined.*—Any member of the legislature who shall vote or use his influence for or against any matter pending in either house in consideration of any money, thing of value, or promise thereof, shall be deemed guilty of bribery; and any

member of the legislature or other person who shall directly or indirectly offer, give or promise any money, thing of value, privilege or personal advantage, to any member of the legislature to influence him to vote or work for or against any matter pending in either house; or any member of the legislature who shall solicit from any person or corporation any money, thing of value or personal advantage for his vote or influence as such member shall be deemed guilty of solicitation of bribery.

Sec. 40. *Bribery; penalties for.*—Any person convicted of any of the offenses mentioned in sections thirty-seven and thirty-nine hereof, shall be deemed guilty of a felony and upon conviction shall be punished by fine of not more than one thousand dollars or by imprisonment in the penitentiary for not less than one nor more than five years.

Sec. 41. *Testimony in bribery investigations.*—Any person may be compelled to testify in any lawful investigation or judicial proceeding against another charged with bribery or solicitation of bribery as defined herein, and shall not be permitted to withhold his testimony on the ground that it might incriminate or subject him to public infamy; but such testimony shall not be used against him in any judicial proceeding against him except for perjury in giving such testimony.

APPORTIONMENT

Until changed by law as hereinafter provided, the legislative districts of the state shall be constituted as follows:

Senatorial Districts

First. The county of San Miguel, one senator.

Second. The counties of San Miguel and Mora, one senator to be a resident of Mora county and to be elected by the electors of Mora and San Miguel counties.

Third. The counties of Guadalupe and San Miguel, one senator.

Fourth. The county of Rio Arriba, one senator.

Fifth. The counties of Bernalillo, San Juan and Sandoval, one senator.

Sixth. The counties of Rio Arriba and Sandoval, one senator.

Seventh. The county of Bernalillo, one senator.

Eighth. The county of Colfax, one senator.

Ninth. The counties of Union and Colfax, one senator, to be a resident of Union County, and to be elected by the qualified electors of Union and Colfax counties.

Tenth. The county of Santa Fe, one senator.

Eleventh. The county of Taos, one senator.

Twelfth. The county of Valencia, one senator.

Thirteenth. The counties of Sierra, Grant, Luna and Socorro, one senator.

Fourteenth. The county of Socorro, one senator.

Fifteenth. The counties of Torrance, Otero, Lincoln and Socorro, one senator.

Sixteenth. The county of Dona Ana, one senator.

Seventeenth. The county of McKinley, one senator.

Eighteenth. The counties of Otero and Lincoln, one senator.

- Nineteenth. The county of Chaves, one senator.
Twentieth. The county of Eddy, one senator.
Twenty-first. The county of Roosevelt, one senator.
Twenty-second. The county of Quay, one senator.
Twenty-third. The county of Curry, one senator.
Twenty-fourth. The county of Grant, one senator.

Representative Districts

- First. The county of Valencia, two members.
Second. The county of Socorro, two members.
Third. The county of Bernalillo, three members.
Fourth. The county of Santa Fe, two members.
Fifth. The county of Rio Arriba, two members.
Sixth. The county of San Miguel, three members.
Seventh. The county of Mora, two members.
Eighth. The county of Colfax, two members.
Ninth. The county of Taos, two members.
Tenth. The county of Sandoval, one member.
Eleventh. The county of Union, two members.
Twelfth. The county of Torrance, one member.
Thirteenth. The county of Guadalupe, one member.
Fourteenth. The county of McKinley, two members.
Fifteenth. The county of Dona Ana, two members.
Sixteenth. The county of Lincoln, one member.
Seventeenth. The county of Otero, one member.
Eighteenth. The county of Chaves, three members.
Nineteenth. The county of Eddy, two members.
Twentieth. The county of Roosevelt, one member.
Twenty-first. The county of Luna, one member.
Twenty-second. The county of Grant, two members.
Twenty-third. The county of Sierra, one member.

Twenty-fourth. The county of San Juan, one member.

Twenty-fifth. The county of Quay, two members.

Twenty-sixth. The county of Curry, one member.

Twenty-seventh. The counties of Rio Arriba and Sandoval, one member.

Twenty-eighth. The counties of Torrance, Santa Fe and Guadalupe, one member.

Twenty-ninth. The counties of San Miguel and Guadalupe, one member.

Thirtieth. The counties of Lincoln, Otero and Socorro, one member.

Upon the creation of any new county it shall be annexed to some contiguous district for legislative purposes.

Reapportionment.—At its first session after the publication of the census of the United States in the year nineteen hundred and twenty and at the first session after each United States census thereafter, the legislature may reapportion the legislative districts of the state upon the basis of population; provided, that each county included in each district shall be contiguous to some other county therein.

ARTICLE V—Executive Department

Section 1. *State officers.*—The executive department shall consist of a governor, lieutenant-governor, secretary of state, state auditor, state treasurer, attorney-general, superintendent of public instruction and commissioner of public lands, who shall be elected for

the term of four years beginning on the first day of January next after their election.

Such officers, except the commissioner of public lands and superintendent of public instruction, shall be ineligible to succeed themselves after serving one full term. The officers of the executive department, except the lieutenant-governor, shall, during their terms of office, reside and keep the public records, books, papers and seals of office at the seat of government.

Sec. 2. *Election returns.*—The returns of every election for state officers shall be sealed up and transmitted to the secretary of state, who, with the governor and chief justice, shall constitute the state canvassing board which shall canvass and declare the result of the election. The person having the highest number of votes for any office, as shown by said returns, shall be declared duly elected. If two or more have an equal and the highest number of votes for the same office, one of them shall be chosen therefor by the legislature on joint ballot.

Sec. 3. *Who are eligible.*—No person shall be eligible to any office specified in section one, hereof, unless he be a citizen of the United States, at least thirty years of age, nor unless he shall have resided continuously in New Mexico for five years next preceding his election; nor to the office of attorney-general, unless he be a licensed attorney of the supreme court of New Mexico in good standing; nor to the office of superintendent of public instruction unless he be a trained and experienced educator.

Sec. 4. *The governor.*—The supreme executive power of the state shall be vested in the governor, who shall take care that the laws be faithfully executed. He shall be commander-in-chief of the military forces of the state, except when they are called into the service of the United States. He shall have power to call out the militia to preserve the public peace, execute the laws, suppress insurrection and repel invasion.

Sec. 5. *Appointments and vacancies.*—The governor shall nominate, and, by and with the consent of the senate, appoint all officers whose appointment or election is not otherwise provided for, and may remove any officer appointed by him for incompetency, neglect of duty or malfeasance in office. Should a vacancy occur in any state office, except lieutenant-governor and member of the legislature, the governor shall fill such office by appointment, and such appointee shall hold office until the next general election, when his successor shall be chosen for the unexpired term.

Sec. 6. *Reprieves and pardons.*—Subject to such regulations as may be prescribed by law, the governor shall have power to grant reprieves and pardons, after conviction for all offenses except treason and in cases of impeachment.

Sec. 7. *Vacancy in office of governor.*—In case of a vacancy in the office of governor, the lieutenant-governor shall succeed to that office, and to all the powers, duties and emoluments thereof. In case the governor is absent from the state, or is for any reason unable to perform his duties, the lieutenant-governor shall act as governor, with all the powers, duties and

emoluments of that office until such disability be removed. In case there is no lieutenant-governor, or in case he is for any reason unable to perform the duties of governor, then the secretary of state or, in case there is no secretary of state, or he is for any reason unable to perform the duties of governor, then the president pro tempore of the senate, shall succeed to the office of governor, or act as governor as hereinbefore provided.

Sec. 8. *Lieutenant-governor*.—The lieutenant-governor shall be president of the senate, but shall vote only when the senate is equally divided.

Sec. 9. *Duties of executive officers*.—Each officer of the executive department and of the public institutions of the state shall keep an account of all moneys received by him and make reports thereof to the governor under oath, annually, and at such other times as the governor may require, and shall, at least thirty days preceding each regular session of the legislature, make a full and complete report to the governor, who shall transmit the same to the legislature.

Sec. 10. *State seal*.—There shall be a state seal which shall be called the “Great Seal of the State of New Mexico,” and shall be kept by the secretary of state.

Sec. 11. *Commissions*.—All commissions shall issue in the name of the state, be signed by the governor and attested by the secretary of state, who shall affix the state seal thereto.

Sec. 12. *Salaries*.—The annual compensation to be paid to the officers mentioned in section one of this

article shall be as follows: Governor, five thousand dollars; secretary of state, three thousand dollars; state auditor, three thousand dollars; state treasurer, three thousand dollars; attorney-general, four thousand dollars; superintendent of public instruction, three thousand dollars, and commissioner of public lands, three thousand dollars; which compensation shall be paid to the respective officers in equal quarterly payments.

The lieutenant-governor shall receive ten dollars per diem while acting as presiding officer of the senate, and mileage at the same rate as a state senator.

The compensation herein fixed shall be full payment for all services rendered by said officers and they shall receive no other fees or compensation whatsoever.

The compensation of any of said officers may be increased or decreased by law after the expiration of ten years from the date of the admission of New Mexico as a state.

Sec. 13. *Residence required.*—All district, county, precinct and municipal officers, shall be residents of the political subdivisions for which they are elected or appointed.

ARTICLE VI—Judicial Department

Section 1. *Judicial power.*—The judicial power of the state shall be vested in the senate when sitting as a court of impeachment, a supreme court, district courts, probate courts, justices of the peace, and such courts inferior to the district courts as may be estab-

lished by law from time to time in any county or municipality of the state, including juvenile courts.

Sec. 2. *Appellate jurisdiction; supreme court.*—The appellate jurisdiction of the supreme court shall be coextensive with the state, and shall extend to all final judgments and decisions of the district courts, and said court shall have such appellate jurisdiction of interlocutory orders and decisions of the district courts as may be conferred by law.

Sec. 3. *Original jurisdiction; supreme court.*—The supreme court shall have original jurisdiction in quo warranto and mandamus against all state officers, boards and commissions, and shall have a superintending control over all inferior courts; it shall also have power to issue writs of mandamus, error, prohibition, habeas corpus, certiorari, injunction and all other writs necessary or proper for the complete exercise of its jurisdiction and to hear and determine the same. Such writs may be issued by direction of the court, or by any justice thereof. Each justice shall have power to issue writs of habeas corpus upon petition by or on behalf of a person held in actual custody, and to make such writs returnable before himself or before the supreme court, or before any of the district courts or any judge thereof.

Sec. 4. *Number of supreme court judges and chief justice.*—The supreme court of the state shall consist of three justices, who shall be elected at the general election for representatives in congress for a term of eight years.

At the first election for state officers after the adop-

tion of this constitution, there shall be elected three justices of the supreme court, who shall immediately qualify and classify themselves by lot, so that one of them shall hold office until four years, one until six years, and one until eight years, from and after the first day of January, nineteen hundred and thirteen. A certificate of such classification shall be filed in the office of the secretary of state. Until otherwise provided by law, the justice who has the shortest term to serve shall be the chief justice and shall preside at all sessions of the court; and in his absence the justice who has the next shortest term to serve shall preside; but no justice appointed or elected to fill a vacancy shall be chief justice.

Sec. 5. *Quorum*.—A majority of the justices of the supreme court shall be necessary to constitute a quorum for the transaction of business, and a majority of the justices must concur in any judgment of the court.

Sec. 6. *When a district judge may act as supreme court judge*.—When a justice of the supreme court shall be interested in any case, or be absent, or incapacitated, the remaining justices of the court may, in their discretion, call in any district judge of the state to act as a justice of the court.

Sec. 7. *Supreme court; when in session*.—The supreme court shall hold one term each year, commencing on the second Wednesday in January, and shall be at all times in session at the seat of government; provided, that the court may, from time to time, take such recess as in its judgment may be proper.

Sec. 8. *Supreme court; who are eligible.*—No person shall be qualified to hold the office of justice of the supreme court unless he be at least thirty years old, learned in the law, and shall have been in the actual practice of law and resided in this state or the Territory of New Mexico, for at least three years. Any person whose time of service upon the bench of any district court of this state or the Territory of New Mexico, added to the time he may have practiced law, as aforesaid, shall be equal to three years, shall be qualified without having practiced for the full three years.

Sec. 9. *Supreme court; executive power.*—The supreme court may appoint and remove at pleasure its reporter, bailiff, clerk and such other officers and assistants as may be prescribed by law.

Sec. 10. *Supreme court; when the number may be increased.*—After the publication of the census of the United States in the year nineteen hundred and twenty, the legislature shall have power to increase the number of justices of the supreme court to five; provided, however, that no more than two of said justices shall be elected at one time, except to fill a vacancy.

Sec. 11. *Supreme court; salary.*—The justices of the supreme court shall each receive an annual salary of six thousand dollars, payable quarterly.

Sec. 12. *Eight judicial districts.*—The state shall be divided into eight judicial districts, and a judge shall be chosen for each district by the qualified electors thereof at the election for representatives in con-

gress. The terms of office of the district judges shall be six years.

Sec. 13. *Appellate and original jurisdiction of district court.*—The district court shall have original jurisdiction in all matters and causes not excepted in this constitution, and such jurisdiction of special cases and proceedings as may be conferred by law, and appellate jurisdiction of all cases originating in inferior courts and tribunals in their respective districts, and supervisory control over the same. The district courts, or any judge thereof, shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, prohibition, and all other writs, remedial or otherwise in the exercise of their jurisdiction; provided, that no such writs shall issue directed to judges or courts of equal or superior jurisdiction. The district courts shall also have the power of naturalization in accordance with the laws of the United States. Until otherwise provided by law, at least two terms of the district court shall be held annually in each county, at the county seat.

Sec. 14. *Qualifications of district judges.*—The qualifications of the district judges shall be the same as those of justices of the supreme court. Each district judge shall reside in the district for which he was elected.

Sec. 15. *To meet unusual situations.*—Any district judge may hold district court in any county at the request of the judge of such district.

Whenever the public business may require, the chief justice of the supreme court shall designate any dis-

trict judge of the state to hold court in any district, and two or more district judges may sit in any district or county separately at the same time. If any judge shall be disqualified from hearing any cause in the district, the parties to such cause, or their attorneys of record, may select some member of the bar to hear and determine said cause, and act as judge pro tempore therein.

Sec. 16. *Increase number of judges and districts.*—The legislature may increase the number of district judges in any judicial district, and they shall be elected as other district judges. At its first session after the publication of the census of the United States in the year nineteen hundred and twenty, and at the first session after each United States census thereafter, the legislature may rearrange the districts of the state, increase the number thereof, and make provision for a district judge for any additional district.

Sec. 17. *Salary.*—Each judge of the district court shall receive an annual salary of four thousand five hundred dollars, payable quarterly by the state.

Sec. 18. *When judge may not act.*—No judge of any court nor justice of the peace shall, except by consent of all parties, sit in the trial of any cause in which either of the parties shall be related to him by affinity or consanguinity within the degree of first cousin, or in which he was counsel or in the trial of which he presided in any inferior court, or in which he has an interest.

Sec. 19. *Prohibition of candidacy.*—No judge of the supreme or district courts shall be nominated or

elected to any other than a judicial office in this state.

Sec. 20. *Writs and processes.*—All writs and processes shall issue, and all prosecution shall be conducted in the name of “The State of New Mexico.”

Sec. 21. *Conservators of the Peace.*—Justices of the supreme court in the state, district judges in their respective districts and justices of the peace in their respective counties, shall be conservators of the peace. District judges and justices of the peace may hold preliminary examinations in criminal cases.

Sec. 22. *County clerk to be clerk of the court.*—Until otherwise provided by law, a county clerk shall be elected in each county who shall, in the county for which he is elected, perform all the duties now performed by the clerks of the district courts and clerks of the probate courts.

Sec. 23. *Probate court.*—A probate court is hereby established for each county, which shall be a court of record, and, until otherwise provided by law, shall have the same jurisdiction as is now exercised by the probate courts of the Territory of New Mexico. The legislature shall have power from time to time to confer upon the probate court in any county in this state, general civil jurisdiction coextensive with the county; provided, however, that such court shall not have jurisdiction in civil causes in which the matter in controversy shall exceed in value one thousand dollars, exclusive of interest; nor in any action for malicious prosecution, divorce and alimony, slander and libel; nor in any action against officers for misconduct in office; nor in any action

for the specific performance of contracts for the sale of real estate; nor in any action for the possession of land; nor in any matter wherein the title or boundaries of land may be in dispute or drawn in question; nor to grant writs of injunction, habeas corpus or extraordinary writs. Jurisdiction may be conferred upon the judges of said court to act as examining and committing magistrates in criminal cases, and upon said courts for the trial of misdemeanors in which the punishment cannot be imprisonment in the penitentiary, or in which the fine cannot be in excess of one thousand dollars. A jury for the trial of such cases shall consist of six men.

Any civil or criminal case pending in the probate court, in which the probate judge is disqualified, shall be transferred to the district court of the same county for trial.

Sec. 24. *District attorney.*—There shall be a district attorney for each judicial district, who shall be learned in the law, and who shall have been a resident of New Mexico for three years next prior to his election, shall be the law officer of the state and of the counties within his district, shall be elected for a term of four years, and shall perform such duties and receive such salary as may be prescribed by law.

The legislature shall have the power to provide for the election of additional district attorneys in any judicial district and to designate the counties therein for which the district attorneys shall serve; but no district attorney shall be elected for any district of which he is not a resident.

Sec. 25. *Judicial districts.*—The state shall be divided into eight judicial districts, as follows:

First District. The counties of Santa Fe, Rio Arriba and San Juan.

Second District. The counties of Bernalillo, McKinley and Sandoval.

Third District. The counties of Dona Ana, Otero, Lincoln and Torrance.

Fourth District. The counties of San Miguel, Mora and Guadalupe.

Fifth District. The counties of Eddy, Chaves, Roosevelt and Curry.

Sixth District. The counties of Grant and Luna.

Seventh District. The counties of Socorro, Valencia and Sierra.

Eighth District. The counties of Taos, Colfax, Union and Quay.

In case of the creation of new counties the legislature shall have power to attach them to any contiguous district for judicial purposes.

Sec. 26. *Jurisdiction of justices of the peace, etc.*—Justices of the peace, police magistrates and constables shall be elected in and for such precincts or districts as are or may be provided by law. Such justices and police magistrates shall not have jurisdiction in any matter in which the title to real estate or the boundaries of land may be in dispute or drawn in question or in which the debt or sum claimed shall be in excess of two hundred dollars exclusive of interest.

Sec. 27. *Appeals to district courts.*—Appeals shall

be allowed in all cases from the final judgments and decisions of the probate courts and justices of the peace to the district courts, and in all such appeals trial shall be had de novo unless otherwise provided by law.

ARTICLE VII—Elective Franchise

Section 1. *Who may vote.*—Every male citizen of the United States, who is over the age of twenty-one years, and has resided in New Mexico twelve months, in the county ninety days, and in the precinct in which he offers to vote thirty days, next preceding the election, except idiots, insane persons, persons convicted of a felonious or infamous crime unless restored to political rights, and Indians not taxed, shall be qualified to vote at all elections for public officers. All school elections shall be held at different times from other elections. Women possessing the qualifications prescribed in this section for male electors shall be qualified electors at all such school elections; provided, that if a majority of the qualified voters of any school district shall, not less than thirty days before any school election, present a petition to the board of county commissioners against women suffrage in such district, the provisions of this section relating to woman suffrage shall be suspended therein, and such provision shall become again operative only upon the filing with said board of a petition signed by a majority of the qualified voters favoring the restoration thereof. The board of county commis-

sioners shall certify the suspension or restoration of such suffrage to the proper school district.

The legislature shall have the power to require the registration of the qualified electors as a requisite for voting, and shall regulate the manner, time and places of voting. The legislature shall enact such laws as will secure the secrecy of the ballot, the purity of elections and guard against the abuse of elective franchise. Not more than two members of the board of registration and not more than two judges of election shall belong to the same political party at the time of their appointment.

Sec. 2. *Who may hold office.*—Every male citizen of the United States who is a legal resident of the state and is a qualified elector therein, shall be qualified to hold any public office in the state, except as otherwise provided in this constitution; provided, however, that women possessing the qualifications of male electors prescribed in paragraph one of this article shall be qualified to hold the office of county school superintendent, and shall also be eligible for election to the office of school director or members of a board of education.

Sec. 3. *No restriction on voters.*—The right of any citizen of the state to vote, hold office, or sit upon juries, shall never be restricted, abridged or impaired on account of religion, race, language or color, or inability to speak, read or write the English or Spanish languages except as may be otherwise provided in this constitution; and the provisions of this section and of section one of this article shall never be

amended except upon a vote of the people of this state in an election at which at least three-fourths of the electors voting in the whole state, and at least two-thirds of those voting in each county of the state, shall vote for such amendment.

Sec. 4. *Residence*.—No person shall be deemed to have acquired or lost residence by reason of his presence or absence while employed in the service of the United States or of the state, nor while a student at any school.

Sec. 5. *Election by plurality*.—All elections shall be by ballot, and the person who receives the highest number of votes for any office shall be declared elected thereto.

ARTICLE VIII—Taxation and Revenue

Section 1. *Uniform Taxation*.—The rate of taxation shall be equal and uniform upon all subjects of taxation.

Sec. 2. *Kind of taxes*.—The legislature shall have power to provide for the levy and collection of license, franchise, excise, income, collateral and direct-inheritance, legacy and succession taxes; also graduated income taxes, graduated collateral and direct-inheritance taxes, graduated legacy and succession taxes, and other specific taxes, including taxes upon the production and output of mines, oil lands and forests; but no double taxation shall be permitted.

Sec. 3. *Complete power of taxation*.—The enumeration of subjects of taxation in section two of this

article shall not deprive the legislature of the power to require other subjects to be taxed in such manner as may be consistent with the principles of taxation fixed in this constitution.

Sec. 4. *Tax limitation.*—There shall be levied annually for state revenue a tax not to exceed four mills on each dollar of the assessed valuation of the property in the state, except for the support of the educational, penal and charitable institutions of the state, payment of the state debt and interest thereon. For the first two years after this constitution goes into effect the total annual tax levy for all state purposes exclusive of necessary levies for the state debt shall not exceed twelve mills; and thereafter it shall not exceed ten mills.

Sec. 5. *Board of equalization.*—A state board of equalization is hereby created which shall consist of the governor, traveling auditor, state auditor, secretary of state and attorney-general. Until otherwise provided, said board shall have and exercise all the powers now vested in the territorial board of equalization.

Sec. 6. *Taxes must be paid.*—The legislature shall have no power to release or discharge any county, city, town, school district or other municipal corporation or subdivision of the state, from its proportionate share of taxes levied for any purpose.

Sec. 7. *Public property exempt from taxation.*—The property of the United States, the state and all counties, towns, cities and school districts, and other municipal corporations, public libraries, community

ditches and all laterals thereof, all church property, all property used for educational or charitable purposes, all cemeteries not used or held for private or corporate profit, and all bonds of the State of New Mexico, and of the counties, municipalities and districts thereof shall be exempt from taxation.

Sec. 8. *When and what property may be exempt from taxation.*—The power to license and tax corporations and corporate property shall not be relinquished or suspended by the state or any subdivision thereof; provided, that the legislature may, by general law, exempt new railroads from taxation for not more than six years, from and after the completion of any such railroad and branches; such railroad being deemed to be completed for the purpose of taxation, as to any operative division thereof, when the same is opened for business to the public; and new sugar factories, smelters, reduction and refining works, and pumping plants for irrigation purposes, and irrigation works, for not more than six years from and after their establishment.

Sec. 9. *By whom public-service corporations shall be taxed.*—All property within the territorial limits of the authority levying the tax, and subject to taxation, shall be taxed therein for state, county, municipal and other purposes; provided, that the state board of equalization shall determine the value of all property of railroad, express, sleeping-car, telegraph, or telephone and other transportation or transmission companies, used by such companies in the operation of their railroad, express, sleeping-car, telegraph, or

telephone lines, or other transportation or transmission lines, and shall certify the value thereof as so determined to the county and municipal taxing authorities.

Sec. 10. *Profit in public money forbidden.*—Any public officer making any profit out of public moneys, or using the same for any purpose not authorized by law, shall be deemed guilty of a felony and shall be punished as provided by law, and shall be disqualified to hold public office. All public moneys not invested in interest bearing securities shall be deposited in national banks in this state or in banks or trust companies incorporated under the laws of the state, and the interest derived therefrom shall be applied in the manner prescribed by law.

Sec. 11. *Two hundred dollars exemption to heads of families.*—The legislature may exempt from taxation property of each head of a family to the amount of two hundred dollars.

Sec. 12. *Taxation of large tracts.*—Lands held in large tracts shall not be assessed for taxation at any lower value per acre than lands of the same character or quality and similarly situated, held in smaller tracts. The plowing of land shall not be considered as adding value thereto for the purpose of taxation.

Sec. 13. *No personal liability.*—No execution shall issue upon any judgment rendered against the board of county commissioners of any county, or against any city, incorporated town or village, school district or board of education; or against any officer of any county, city, school district or board of education,

upon any judgment recovered against him in his official capacity and for which the county, city, incorporated town or village, school district or board of education, is liable, but the same shall be paid out of the proceeds of a tax levy as other liabilities of counties, cities, incorporated towns or villages, school districts or boards of education, and when so collected shall be paid by the county treasurer to the judgment creditor.

ARTICLE IX—State, County and Municipal Indebtedness

Section 1. *Assumption of territorial and county indebtedness.*—The state hereby assumes the debts and liabilities of the Territory of New Mexico, and the debts of the counties thereof, which were valid and subsisting on June twentieth, nineteen hundred and ten, and pledges its faith and credit for the payment thereof. The legislature shall, at its first session, provide for the payment or refunding thereof by the issue and sale of bonds, or otherwise.

Sec. 2. *Bonds of Grant and Santa Fe counties.*—No county shall be required to pay any portion of the debt of any other county so assumed by the state, and the bonds of Grant and Santa Fe counties which were validated, approved and confirmed by act of congress of January sixteenth, eighteen hundred and ninety-seven, shall be paid as hereinafter provided.

Sec. 3. *Bonds in series.*—The bonds authorized by

law to provide for the payment of such indebtedness shall be issued in three series, as follows:

Series A. To provide for the payment of such debts and liabilities of the Territory of New Mexico.

Series B. To provide for the payment of such debts of said counties.

Series C. To provide for the payment of the bonds and accrued interest thereon of Grant and Santa Fe counties which were validated, approved and confirmed by act of congress, January sixteenth, eighteen hundred and ninety-seven.

Sec. 4. *Lands given by congress to pay debts of Santa Fe and Grant counties.*—The proper officers of the state shall, as soon as practicable, select and locate the one million acres of land granted to the state by congress for the payment of the said bonds of Grant and Santa Fe counties, and sell the same or sufficient thereof to pay the interest and principal of the bonds of Series C issued as provided in section three hereof. The proceeds of rentals and sales of said land shall be kept in a separate fund and applied to the payment of the interest and principal of the bonds of Series C. Whenever there is not sufficient money in said fund to meet the interest and sinking fund requirements therefor, the deficiency shall be paid out of any funds of the state not otherwise appropriated, and shall be repaid to the state or to the several counties which may have furnished any portion thereof under a general levy, out of the proceeds subsequently received of rentals and sales of said lands.

Any money received by the state from rentals and

sales of said lands in excess of the amounts required for the purposes above mentioned shall be paid into the current and permanent school funds of the state respectively.

Sec. 5. *Obligation of county not to be released.*—The legislature shall never enact any law releasing any county, or any of the taxable property therein, from its obligation to pay to the state any moneys expended by the state by reason of its assumption or payment of the debt of such county.

Sec. 6. *Repudiating certain warrants.*—No law shall ever be passed by the legislature validating or legalizing, directly or indirectly, the militia warrants alleged to be outstanding against the Territory of New Mexico, or any portion thereof; and no such warrant shall be prima facie or conclusive evidence of the validity of the debt purporting to be evidenced thereby or by any other militia warrant. This provision shall not be construed as authorizing any suit against the state.

Sec. 7. *State may borrow money.*—The state may borrow money not exceeding the sum of two hundred thousand dollars in the aggregate to meet casual deficits or failure in revenue, or for necessary expenses. The state may also contract debts to suppress insurrection and to provide for the public defense.

Sec. 8. *Manner of creating debt.*—No debt other than those specified in the preceding section shall be contracted by or on behalf of this state, unless authorized by law for some specified work or object; which law shall provide for an annual tax levy sufficient to

pay the interest and to provide a sinking fund to pay the principal of such debt within fifty years from the time of the contracting thereof. No such law shall take effect until it shall have been submitted to the qualified electors of the state and have received a majority of all the votes cast thereon at a general election; such law shall be published in full in at least one newspaper in each county of the state, if one be published therein, once a week, for four successive weeks next preceding such election. No debt shall be so created if the total indebtedness of the state, exclusive of the debts of the territory, and the several counties thereof, assumed by the state, would thereby be made to exceed one per centum of the assessed valuation of all the property subject to taxation in the state as shown by the preceding general assessment.

Sec. 9. *Borrowed money; how applied.*—Any money borrowed by the state, or any county, district, or municipality thereof, shall be applied to the purpose for which it was obtained, or to repay such loan, and to no other purpose whatever.

Sec. 10. *Counties may borrow money; when.*—No county shall borrow money except for the purpose of erecting necessary public buildings or constructing or repairing public roads and bridges, and in such cases only after the proposition to create such debt shall have been submitted to the qualified electors of the county who paid a property tax therein during the preceding year and approved by a majority of those voting thereon. No bonds issued for such purpose shall run for more than fifty years.

Sec. 11. *School districts may borrow money.*—

No school district shall borrow money, except for the purpose of erecting and furnishing school buildings or purchasing school grounds, and in such cases only when the proposition to create the debt shall have been submitted to the qualified electors of the district, and approved by a majority of those voting thereon. No school district shall ever become indebted in an amount exceeding six per centum on the assessed valuation of the taxable property within such school district, as shown by the preceding general assessment.

Sec. 12. *Cities and towns may borrow money.*—

No city, town or village shall contract any debt except by an ordinance, which shall be irrevocable until the indebtedness therein provided for shall have been fully paid or discharged, and which shall specify the purposes to which the funds to be raised shall be applied, and which shall provide for the levy of a tax, not exceeding twelve mills on the dollar upon all taxable property within such city, town or village, sufficient to pay the interest on, and to extinguish the principal of, such debt within fifty years. The proceeds of such tax shall be applied only to the payment of such interest and principal. No such debt shall be created unless the question of incurring the same shall, at a regular election for councilmen, aldermen or other officers of such city, town or village, have been submitted to a vote of such qualified electors thereof as have paid a property tax therein during the preceding year, and a majority of those voting on

the question, by ballot deposited in a separate ballot box, shall have voted in favor of creating such debt.

Sec. 13. *Limitation of indebtedness.*—No county, city, town or village shall ever become indebted to an amount in the aggregate, including existing indebtedness, exceeding four per centum on the value of the taxable property within such county, city, town or village, as shown by the last preceding assessment for state or county taxes; and all bonds or obligations issued in excess of such amount shall be void; provided, that any city, town or village may contract debts in excess of such limitation for the construction or purchase of a system for supplying water, or of a sewer system, for such city, town or village.

Sec. 14. *Restriction on use of credit.*—Neither the state, nor any county, school district, or municipality, except as otherwise provided in this constitution, shall directly or indirectly lend or pledge its credit, or make any donation to or in aid of any person, association or public or private corporation, or in aid of any private enterprise for the construction of any railroad; provided, nothing herein shall be construed to prohibit the state or any county or municipality from making provision for the care and maintenance of sick and indigent persons.

Sec. 15. *Refunding of debts.*—Nothing in this article shall be construed to prohibit the issue of bonds for the purpose of paying or refunding any valid state, county, district or municipal bonds, and it shall not be necessary to submit the question of the issue of such bonds to a vote as herein provided.

ARTICLE X—County and Municipal Corporations

Section 1. *Salaries and fees.*—The legislature shall at its first session classify the counties and fix salaries for all county officers, which shall also apply to those elected at the first election under this constitution. And no county officer shall receive to his own use any fees or emoluments other than the annual salary provided by law, and all fees earned by any officer shall be by him collected and paid into the treasury of the county.

Sec. 2. *Length of term.*—All county officers shall be elected for a term of four years, and no county officer, except the county clerk and probate judge, shall, after having served one full term, be eligible to hold any county office for four years thereafter.

Sec. 3. *County seats may be removed.*—No county seat, where there are county buildings, shall be removed unless three-fifths of the votes cast by qualified electors on the question of removal at an election called and held as now or hereafter provided by law, be in favor of such removal. The proposition of removal shall not be submitted in the same county oftener than once in eight years.

ARTICLE XI—Corporations Other Than Municipal

Section 1. *Corporation commission.*—A permanent commission to consist of three members is hereby

created, which shall be known as the "State Corporation Commission."

Sec. 2. *Term of office.*—The members of the commission shall be elected for the term of six years; provided, that those chosen at the first election for state officers shall immediately qualify and classify themselves by lot, so that one of them shall hold office until two years, one until four years and one until six years from and after January first, nineteen hundred and thirteen; and thereafter one commissioner shall be elected at each general election.

Sec. 3. *Who excluded from membership of commission.*—No officer, agent or employe of any railway, express, telegraph, telephone, sleeping-car, or other transportation or transmission company, while representing such company, nor any person financially interested therein, shall hold office as a member of the commission, or perform any of the duties thereof, and no commissioner shall be qualified to act upon any matter pending before the commission, in which he is interested, either as principal, agent or attorney.

Sec. 4. *Officers of commission.*—The commission shall annually elect one of its members chairman and shall have one clerk, and such other officers, assistants and subordinates as may be prescribed by law, all of whom shall be appointed and subject to removal by the commission. The commission shall prescribe its own rules of order and procedure, except so far as specified in this constitution. The attorney-general of the state, or his legally authorized representative, shall be the attorney for the commission.

Sec. 5. *Salary and expenses.*—The legislature shall provide suitable quarters for the commission, and funds for its lawful expenses, including necessary traveling expenses, witness fees and mileage and costs of executing process issued by the commission or the supreme court or the district courts. The salary of each commissioner shall be three thousand dollars per annum, payable quarterly.

Sec. 6. *Duties.*—Subject to the provisions of this constitution, and of such requirements, rules and regulations as may be prescribed by law, the state corporation commission shall be the department of government through which shall be issued all charters for domestic corporations and amendments or extensions thereof, and all licenses to foreign corporations to do business in this state; and through which shall be carried out all the provisions of this constitution relating to corporations and the laws made in pursuance thereof. The commission shall prescribe the form of all reports which may be required of corporations by this constitution or by law, and shall collect, receive and preserve such reports, and annually tabulate and publish them. All fees required by law to be paid for the filing of articles of incorporation, reports and other documents, shall be collected by the commission and paid into the state treasury. All charters, papers and documents relating to corporations on file in the office of the secretary of the territory, the commissioner of insurance and all other territorial offices, shall be transferred to the office of the commission.

Sec. 7. *Powers.*—The commission shall have power and be charged with the duty of fixing, determining, supervising, regulating and controlling all charges and rates of railway, express, telegraph, telephone, sleeping-car and other transportation and transmission companies and common carriers within the state; to require railway companies to provide and maintain adequate depots, stock-pens, station buildings, agents and facilities for the accommodation of passengers and for receiving and delivering freight and express; and to provide and maintain necessary crossings, culverts and sidings upon and alongside of their roadbeds, whenever in the judgment of the commission the public interests demand, and as may be reasonable and just. The commission shall also have power and be charged with the duty to make and enforce reasonable and just rules requiring the supplying of cars and equipment for the use of shippers and passengers, and to require all intrastate railways, transportation companies or common carriers to provide such reasonable safety appliances in connection with all equipment as may be necessary and proper for the safety of its employes and the public, and as are now or may be required by the federal laws, rules and regulations governing interstate commerce. The commission shall have power to change or alter such rates, to change, alter or amend its orders, rules, regulations or determinations, and to enforce the same in the manner prescribed herein; provided, that in the matter of fixing rates of telephone and telegraph companies, due consideration shall be given to the earn-

ings, investment and expenditure as a whole within the state. The commission shall have power to subpoena witnesses and enforce their attendance before the commission, through any district court or the supreme court of the state, and through such court to punish for contempt; and it shall have power, upon a hearing, to determine and decide any question given to it herein, and in case of failure or refusal of any person, company or corporation to comply with any order within the time limit therein, unless an order of removal shall have been taken from such order by the company or corporation to the supreme court of this state, it shall immediately become the duty of the commission to remove such order, with the evidence adduced upon the hearing, with the documents in the case to the supreme court of this state. Any company, corporation or common carrier which does not comply with the order of the commission within the time limited therefor, may file with the commission a petition to remove such cause to the supreme court, and in the event of such removal by the company, corporation or common carrier, or other party to such hearing, the supreme court may, upon application, in its discretion, or of its own motion, require or authorize additional evidence to be taken in such cause; but in the event of removal by the commission, upon failure of the company, corporation or common carrier, no additional evidence shall be allowed. The supreme court, for the consideration of such causes arising hereunder, shall be in session at all times, and shall give precedence to such causes. Any party

to such hearing before the commission shall have the same right to remove the order entered therein to the supreme court of the state, as given under the provisions hereof to the company or corporation against which such order is directed.

In addition to the other powers vested in the supreme court by this constitution and the laws of the state, the said court shall have the power and it shall be its duty to decide such cases on their merits, and carry into effect its judgments, orders and decrees made in such cases, by fine, forfeiture, mandamus, injunction and contempt or other appropriate proceedings.

Sec. 8. *Public hearing.*—The commission shall determine no question nor issue any order in relation to the matters specified in the preceding section, until after a public hearing held upon ten days' notice to the parties concerned, except in case of default after such notice.

Sec. 9. *Power over rates.*—It is hereby made the duty of the commissioners to exercise constant diligence in informing themselves of the rates and charges of transportation and transmission companies and common carriers engaged in the transportation of passengers and property from points in this state to points beyond its limits, and from points in other states to points in this state; and, whenever it shall come to the knowledge of the commission, by complaint or in any other manner, that the rate charged by any transportation or transmission company or common carrier, on interstate business is unjust, ex-

cessive or unreasonable, or that such rates discriminate against the citizens of the state, and in the judgment of the commission such complaint is well founded and the public welfare involved, the commission shall institute and prosecute to a final determination before the interstate commerce commission or commerce court, or any lawful authority having jurisdiction in the premises, such proceedings as it may deem expedient to obtain such relief as conditions may require.

Sec. 10. *Restriction on common carriers.*—No transportation or transmission company or common carrier shall charge or receive any greater compensation, in the aggregate, for the transportation as intrastate commerce of passengers, or a like kind of property, or for the transmission of the same kind of message, between points in this state, for a shorter than a longer distance over the same line or route in the same direction, the shorter being included within the longer distance; but this section shall not be construed as authorizing any such company or common carrier to charge or receive as great compensation for a shorter as for a longer distance; provided, that telegraph and telephone companies may, in certain cases, with the approval of the commission, base their charges upon the air-line distances instead of the distances actually traveled by the messages. The commission may from time to time authorize any such company or common carrier to disregard the foregoing provisions of this section, by charging such rates as the commission may prescribe as just and equitable between such company or common carrier and the

public, to or from any junction or competitive points, or localities, or where the competition of points located without or within this state may necessitate the prescribing of special rates for the protection of the commerce of this state, or in cases of general epidemics, pestilence, calamitous visitations and other exigencies. This section shall not apply to mileage tickets or to any special excursion or commutation rates; nor to special rates for services rendered in the interest of any public or charitable object, when such tickets or rates shall have been prescribed or authorized by the commission, nor shall it apply to special rates for services rendered to the United States or this state.

Sec. 11. *Authority over books of common carriers.*—The commission shall have the right at all times to inspect the books, papers and records of all such companies and common carriers doing business in this state, and to require from such companies and common carriers from time to time special reports and statements, under oath, concerning their business. The commissioners shall have the power to administer oaths and to certify to their official acts.

Sec. 12. *Existent corporations must accept this constitution.*—No corporation in existence at the time of the adoption of this constitution shall have the benefit of any future legislation, nor shall any amendment or extension to its charter be granted, until such corporation shall have filed in the office of the commission an acceptance of the provisions of this constitution; provided, however, that whether or not

they file such acceptance, such corporations shall be subject to the provisions of this constitution and the laws of this state.

General Provisions

Sec. 13. *General authority of the legislature over corporations.*—The legislature shall provide for the organization of corporations by general law. All laws relating to corporations may be altered, amended or repealed by the legislature, at any time, when necessary for the public good and general welfare, and all corporations, doing business in this state, may, as to such business, be regulated, limited or restrained by laws not in conflict with the constitution of the United States or of this constitution.

Sec. 14. *Police power of state.*—The police power of this state is supreme over all corporations as well as individuals.

Sec. 15. *Duties of railroads, express companies, etc.*—Every railroad, car or express company shall respectively receive and transport, without delay or discrimination, each other's cars, tonnage and passengers, under such rules and regulations as may be prescribed by the commission.

Sec. 16. *Duties of telegraph and telephone companies.*—All telephone and telegraph lines, operated for hire, shall receive and transmit each other's messages without delay or discrimination, and make and maintain connections with each other's lines, under such rules and regulations as may be prescribed by the commission.

Sec. 17. *Right of eminent domain given to railroads.*—Any railroad corporation or association organized for the purpose shall have the right to construct and operate a railroad between any points within this state or elsewhere, and to connect at the state line or elsewhere with the railroads of other states; and, under such terms, order or permission as may be granted in each instance by the commission, shall have the right to cause its road to intersect, connect with or cross any other railroad.

Sec. 18. *Reserved rights in cases of eminent domain.*—The right of eminent domain shall never be so abridged or construed as to prevent the legislature from taking the property and franchises of incorporated companies and subjecting them to the public use, the same as the property of individuals.

ARTICLE XII—Education

Section 1. *Free public schools.*—A uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state, shall be established and maintained.

Sec. 2. *Permanent school fund.*—The permanent school fund of the state shall consist of the proceeds of sales of sections two, sixteen, thirty-two and thirty-six in each township of the state, or the lands selected in lieu thereof; the proceeds of sales of all lands that have been or may hereafter be granted to the state not otherwise appropriated by the terms and conditions of the grant; such portion of the proceeds

of sales of lands of the United States within the state as has been or may be granted by congress; also all other grants, gifts and devises made to the state, the purpose of which is not otherwise specified.

Sec. 3. *Aid to private schools prohibited.*—The schools, colleges, universities and other educational institutions provided for by this constitution shall forever remain under the exclusive control of the state, and no part of the proceeds arising from the sale or disposal of any lands granted to the state by congress, or any other funds appropriated, levied or collected for educational purposes, shall be used for the support of any sectarian, denominational or private school, college or university.

Sec. 4. *Apportionment of current school fund.*—All fines and forfeitures collected under general laws; the net proceeds of property that may come to the state by escheat; the rentals of all school lands and other lands granted to the state, the disposition of which is not otherwise provided for by the terms of the grant or by act of congress; and the income derived from the permanent school fund, shall constitute the current school fund of the state. The legislature shall provide for the levy and collection of an annual tax upon all the taxable property in the state for the maintenance of the public schools, the proceeds of such tax levy to be added to the current school fund above provided for. The current school fund shall be distributed among the school districts of the state in the proportion that the number of children of school age in each district bears to the total

number of such children in the state, and shall provide for the levy and collection of additional local taxes for school purposes. A public school shall be maintained for at least five months in each year in every school district in the state.

Before making the distribution above provided for, there shall be taken from the current school fund as above created, a sufficient reserve to be distributed among school districts in which the proceeds of the annual local tax, when levied to the limit allowed by law, plus the regular quota of current school funds allotted to said district, shall not be sufficient for the maintaining of a school for the full period of five months, and this reserve fund shall be so distributed among such districts as to enable each district to hold school for the said period.

Sec. 5. *Compulsory school attendance*.—Every child of school age and of sufficient physical and mental ability shall be required to attend a public or other school during such period and for such time as may be prescribed by law.

Sec. 6. *State board of education*.—A state board of education is hereby created, to consist of seven members. It shall have the control, management and direction of all public schools, under such regulations as may be provided by law. The governor and the state superintendent of public instruction shall be ex-officio members of said board and the remaining five members shall be appointed by the governor, by and with the consent of the senate; and shall include the head of some state educational institution, a

county superintendent of schools, and one other person actually connected with educational work. The legislature may provide for district or other school officers, subordinate to said board.

Sec. 7. *Investment of permanent school fund.*—The principal of the permanent school fund shall be invested in the bonds of the State or Territory of New Mexico, or of any county, city, town, board of education or school district therein. The legislature may by three-fourths vote of the members elected to each house provide that said funds may be invested in other interest-bearing securities. All bonds or other securities in which any portion of the school fund shall be invested must be first approved by the governor, attorney-general and secretary of state. All losses from such funds, however occurring, shall be reimbursed by the state.

Sec. 8. *Training of teachers in normal schools.*—The legislature shall provide for the training of teachers in the normal schools or otherwise so that they may become proficient in both the English and Spanish languages, to qualify them to teach Spanish-speaking pupils and students in the public schools and educational institutions of the state; and shall provide proper means and methods to facilitate the teaching of the English language and other branches of learning to such pupils and students.

Sec. 9. *No religious test.*—No religious test shall ever be required as a condition of admission into the public schools or any educational institution of this state, either as a teacher or student, and no teacher

or student of such school or institution shall ever be required to attend or participate in any religious service whatsoever.

Sec. 10. *Rights of school children of Spanish descent.*—Children of Spanish descent in the State of New Mexico shall never be denied the right and privilege of admission and attendance in the public schools or other public educational institutions of the state, and they shall never be classed in separate schools, but shall forever enjoy perfect equality with other children in all public schools and educational institutions of the state, and the legislature shall provide penalties for the violation of this section. This section shall never be amended except upon a vote of the people of this state, in an election at which at least three-fourths of the electors voting in the whole state and at least two-thirds of those voting in each county in the state shall vote for such amendment.

Sec. 11. *State educational institutions.*—The University of New Mexico at Albuquerque, the New Mexico College of Agriculture and Mechanic Arts near Las Cruces, the New Mexico School of Mines at Socorro, the New Mexico Military Institute at Roswell, the New Mexico Normal University at Las Vegas, the New Mexico Normal School at Silver City, the Spanish-American School at El Rito, the New Mexico Asylum for the Deaf and Dumb at Santa Fe, and the New Mexico Institute for the Blind at Alamogordo, are hereby confirmed as state educational institutions. The appropriations made and that may hereafter be made to the state by the United States for agricultural

and mechanical colleges and experiment stations in connection therewith shall be paid to the New Mexico College of Agriculture and Mechanic Arts.

Sec. 12. *Public lands for state institutions.*—All lands granted under the provisions of the act of congress, entitled, “An Act to enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original states; and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original states,” for the purposes of said several institutions, are hereby accepted and confirmed to said institutions, and shall be exclusively used for the purposes for which they were granted; provided, that one hundred and seventy thousand acres of the land granted by said act for normal school purposes are hereby equally apportioned between said three normal institutions, and the remaining thirty thousand acres thereof is [are] reserved for a normal school which shall be established by the legislature and located in one of the counties of Union, Quay, Curry, Roosevelt, Chaves or Eddy.

Sec. 13. *Control of state educational institutions.*—The legislature shall provide for the control and management of each of said institutions by a board of regents, for each institution, consisting of five members to be appointed by the governor, by and with the advice and consent of the senate, for a term of four years, and not more than three of whom shall belong to the same political party at the time of their

appointment. The duties of said boards shall be prescribed by law.

ARTICLE XIII—Public Lands

Section 1. *Public lands defined, and limitation on sale thereof.*—All lands belonging to the Territory of New Mexico, and all lands granted, transferred or confirmed to the state by congress, and all lands hereafter acquired, are declared to be public lands of the state to be held or disposed of as may be provided by law for the purposes for which they have been or may be granted, donated or otherwise acquired; provided, that such of school sections two, thirty-two, sixteen and thirty-six as are not contiguous to other state lands shall not be sold within the period of ten years next after the admission of New Mexico as a state for less than ten dollars per acre.

Sec. 2. *Duties of commissioner of public lands.*—The commissioner of public lands shall select, locate, classify, and have the direction, control, care and disposition of all public lands, under the provisions of the acts of congress relating thereto and such regulations as may be provided by law.

ARTICLE XIV—Public Institutions

Section 1. *Reformatory institutions, and hospitals.*—The Penitentiary at Santa Fe, the Miners' Hospital of New Mexico at Raton, the New Mexico Insane Asylum at Las Vegas, and the New Mexico Reform School at Springer, are hereby confirmed as state institutions.

Sec. 2. *Lands for such institutions.*—All lands which have been or which may be granted to the state by congress for the purpose of said several institutions are hereby accepted for said several institutions with all other grants, donations or devises for the benefit of the same, and shall be exclusively used for the purpose for which they were or may be granted, donated or devised.

Sec. 3. *Government of the same.*—Each of said institutions shall be under the control and management of a board whose title, duties and powers shall be as may be provided by law. Each of said boards shall be composed of five members who shall hold office for the term of four years, and shall be appointed by the governor by and with the consent of the senate, and not more than three of whom shall belong to the same political party at the time of their appointment.

ARTICLE XV—Agriculture and Conservation

Section 1. *Department of agriculture.*—There shall be a department of agriculture which shall be under the control of the board of regents of the College of Agriculture and Mechanic Arts; and the legislature shall provide lands and funds necessary for experimental farming and demonstrating by said department.

Sec. 2. *Prevention of forest fires.*—The police power of the state shall extend to such control of private forest lands as shall be necessary for the prevention and suppression of forest fires.

ARTICLE XVI—Irrigation and Water Rights

Section 1. *Existing rights confirmed.*—All existing rights to the use of any waters in this state for any useful or beneficial purpose are hereby recognized and confirmed.

Sec. 2. *Unappropriated waters.*—The unappropriated water of every natural stream, perennial or torrential, within the State of New Mexico, is hereby declared to belong to the public and to be subject to appropriation for beneficial use, in accordance with the laws of the state. Priority of appropriation shall give the better right.

Sec. 3. *Test of right to water.*—Beneficial use shall be the basis, the measure and the limit of the right to the use of water.

Sec. 4. *Drainage system.*—The legislature is authorized to provide by law for the organization and operation of drainage districts and systems.

ARTICLE XVII—Mines and Mining

Section 1. *Inspector of mines.*—There shall be an inspector of mines, who shall be appointed by the governor, by and with the advice and consent of the senate, for a term of four years, and whose duties and salary shall be as prescribed by law.

Sec. 2. *Control of mines.*—The legislature shall enact laws requiring the proper ventilation of mines, the construction and maintenance of escapement shafts or slopes, and the adoption and use of appliances necessary to protect the health and secure the

safety of employes therein. No children under the age of fourteen years shall be employed in mines.

ARTICLE XVIII—Militia

Section 1. *Militia and "National Guard" defined.*—The militia of this state shall consist of all able-bodied male citizens between the ages of eighteen and forty-five, except such as are exempt by laws of the United States or of this state. The organized militia shall be called the "National Guard of New Mexico," of which the governor shall be the commander-in-chief.

Sec. 2. *Organization and equipment of militia.*—The legislature shall provide for the organization, discipline and equipment of the militia, which shall conform as nearly as practicable to the organization, discipline and equipment of the regular army of the United States, and shall provide for the maintenance thereof.

Article XIX originally read as follows:

ARTICLE XIX.—Amendments.

Section 1. Any amendment or amendments to this constitution may be proposed in either house of the legislature at any regular session thereof, and if two-thirds of all members elected to each of the two houses, voting separately, shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays thereon; or any amendment or amendments to this constitution may be proposed at the first regular session of the legislature held after the expiration of two years from the time this constitution goes into effect, or at the regular session

of the legislature convening each eighth year thereafter, and if a majority of all the members elected to each of the two houses voting separately at said sessions shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays thereon. The secretary of state shall cause any such amendment or amendments to be published in at least one newspaper in every county of the state where a newspaper is published, once each week, for four consecutive weeks, the last publication to be not less than two weeks prior to the next general election, at which time the said amendment or amendments shall be submitted to the electors of the state for their approval or rejection. If the same be ratified by a majority of the electors voting thereon and by an affirmative vote equal to at least forty per centum of all the votes cast at said election in the state and in at least one-half of the counties thereof, then, and not otherwise, such amendment or amendments shall become part of this constitution. Not more than three amendments shall be submitted at one election, and if two or more amendments are proposed, they shall be so submitted as to enable the electors to vote on each of them separately; provided, that no amendment shall apply to or affect the provisions of sections one and three of article seven hereof on Elective Franchise, and sections eight and ten of article twelve hereof on Education unless it be proposed by vote of three-fourths of the members elected to each house.

Sec. 2. Whenever, during the first twenty-five years after the adoption of this constitution, the legislature by a three-fourths vote of the members elected to each house, or after the expiration of said period of said twenty-five years by a two-thirds vote of the members elected to each house, shall deem it necessary to call a convention to revise or amend this constitution, they shall submit the question of calling such convention to the electors at the next general election, and if a majority of all the electors voting at said election in the state and in at least one-half of the counties thereof shall vote in favor of calling a convention, the legislature shall at the next session provide by law for calling the same. Such convention

shall consist of at least as many delegates as there are members of the house of representatives.

The constitution adopted by such convention shall have no validity until it has been submitted to and ratified by the people.

Sec. 3. If this constitution be in any way so amended as to allow laws to be enacted by direct vote of the electors, the laws which may be so enacted shall be only such as might be enacted by the legislature under the provisions of this constitution.

Sec. 4. When the United States shall consent thereto, the legislature, by a majority vote of the members in each house, may submit to the people the question of amending any provision of Article XXI of this constitution on Compact with the United States to the extent allowed by the act of congress permitting the same, and if a majority of the qualified electors who vote upon any such amendment shall vote in favor thereof, the said article shall be thereby amended accordingly.

Sec. 5. The provisions of section one of this article shall not be changed, altered or abrogated in any manner except through a general convention called to revise this constitution as herein provided.

But at the first state election the constitution was amended to read:

ARTICLE XIX—Amendments

Section 1. *Method of.*—Any amendment or amendments to this constitution, may be proposed in either house of the legislature at any regular session thereof, and if a majority of all members elected to each of the two houses, voting separately, shall vote in favor thereof, such proposed amendment or amendments shall be entered on their respective journals with the yeas and nays thereon. The secretary of state shall cause any such amendment or amendments to be

published in at least one newspaper in every county of the State, where a newspaper is published once each week, for four consecutive weeks, in English and Spanish when newspapers in both of said languages are published in such counties, the last publication to be not more than two weeks prior to the election at which time said amendment or amendments shall be submitted to the electors of the State for their approval or rejection; and the said amendment or amendments shall be voted upon at the next regular election held in said State after the adjournment of the legislature proposing such amendment or amendments, or at such special election to be held not less than six months after the adjournment of said legislature, at such time as said legislature may by law provide. If the same be ratified by a majority of the electors voting thereon such amendment or amendments shall become part of this constitution. If two or more amendments are proposed, they shall be so submitted as to enable the electors to vote on each of them separately; *Provided*, That no amendment shall apply to or affect the provisions of sections one and three of Article VII hereof, on elective franchise, and sections eight and ten of Article XII hereof, on education, unless it be proposed by vote of three-fourths of the members elected to each house and be ratified by a vote of the people of this State in an election at which at least three-fourths of the electors voting in the whole State and at least two-thirds of those voting in each county in the State shall vote for such amendment.

Sec. 2. *Calling convention.*—Whenever, during the first twenty-five years after the adoption of this constitution, the legislature by a three-fourths vote of the members elected to each house, or after the expiration of said period of said twenty-five years by a two-thirds vote of the members elected to each house, shall deem it necessary to call a convention to revise or amend this constitution, they shall submit the question of calling such convention to the electors at the next general election, and if a majority of all the electors voting on such question at said election in the state shall vote in favor of calling a convention, the legislature shall at the next session provide by law for calling the same. Such convention shall consist of at least as many delegates as there are members of the house of representatives.

The constitution adopted by such convention shall have no validity until it has been submitted to and ratified by the people.

Sec. 3. *Restriction in amendments.*—If this constitution be in any way so amended as to allow laws to be enacted by direct vote of the electors, the laws which may be so enacted shall be only such as might be enacted by the legislature under the provisions of this constitution.

Sec. 4. *Permission to submit amendment.*—When the United States shall consent thereto, the legislature, by a majority vote of the members in each house, may submit to the people the question of amending any provision of Article XXI of this constitution on Compact with the United States to the extent allowed

by the act of congress permitting the same, and if a majority of the qualified electors who vote upon any such amendment shall vote in favor thereof, the said article shall be thereby amended accordingly.

Sec. 5. *Restriction.*—The provisions of section one of this article shall not be changed, altered or abrogated in any manner except through a general convention called to revise this constitution as herein provided.

ARTICLE XX—Miscellaneous

Section 1. *Oath of officers.*—Every person elected or appointed to any office shall, before entering upon his duties, take and subscribe to an oath or affirmation that he will support the Constitution of the United States and the constitution and laws of this state, and that he will faithfully and impartially discharge the duties of his office to the best of his ability.

Sec. 2. *Officer holds until successor qualifies.*—Every officer, unless removed, shall hold his office until his successor has duly qualified.

Sec. 3. *Beginning of term of every elected officer.*—The term of office of every state, county or district officer, except those elected at the first election held under this constitution, and those elected to fill vacancies, shall commence on the first day of January next after his election.

Sec. 4. *Filling of certain vacancies.*—If a vacancy occur in the office of district attorney, judge of the supreme or district court, or county commissioner, the governor shall fill such vacancy by appointment, and

such appointee shall hold such office until the next general election. His successor shall be chosen at such election and shall hold his office until the expiration of the original term.

Sec. 5. *Vacancies in appointive offices.*—If, while the senate is not in session, a vacancy occur in any office the incumbent of which was appointed by the governor by and with the advice and consent of the senate, the governor shall appoint some qualified person to fill the same until the next session of the senate; and shall then appoint by and with the advice and consent of the senate some qualified person to fill said office for the period of the unexpired term.

Sec. 6. *General elections.*—General elections shall be held in the state on the Tuesday after the first Monday in November in each even numbered year.

Sec. 7. *Canvass of returns.*—The returns of all elections for officers who are chosen by the electors of more than one county shall be canvassed by the county canvassing board of each county as to the vote within their respective counties. Said board shall immediately certify the number of votes received by each candidate for such office within such county, to the state canvassing board herein established, which shall canvass and declare the result of the election.

Sec. 8. *First state election.*—In the event that New Mexico is admitted into the Union as a state prior to the Tuesday next after the first Monday in November in the year nineteen hundred and twelve, and if no provision has been made by the state legislature therefor, an election shall be held in the state

on the said Tuesday next after the first Monday in November, nineteen hundred and twelve, for the election of presidential electors; and such election shall be held as herein provided for the election upon the ratification of this constitution, and the returns thereof made to, and canvassed and certified by, the state canvassing board as herein provided in case of the election of state officers.

Sec. 9. *Officers receive salary only.*—No officer of the state who receives a salary shall accept or receive to his own use any compensation, fees, allowance, or emoluments for or on account of his office, in any form whatever, except the salary provided by law.

Sec. 10. *Employment of children.*—The legislature shall enact suitable laws for the regulation of the employment of children.

Sec. 11. *Women may hold certain appointive offices.*—Women may hold the office of notary public and such other appointive offices as may be provided by law.

Sec. 12. *How laws shall be published.*—For the first twenty years after this constitution goes into effect all laws passed by the legislature shall be published in both the English and Spanish languages and thereafter such publication shall be made as the legislature may provide.

Sec. 13. *Wines for sacramental purposes.*—The use of wines solely for sacramental purposes under church authority at any place within the state shall never be prohibited.

Sec. 14. *Passes prohibited.*—It shall not be lawful

for the governor, any member of the state board of equalization, any member of the corporation commission, any judge of the supreme or district court, any district attorney, any county commissioner or any county assessor, during his term of office to accept, hold or use any free pass; or purchase, receive or accept transportation over any railroad within this state for himself or his family upon terms not open to the general public; and any person violating the provisions hereof shall, upon conviction in a court of competent jurisdiction, be punished as provided in sections thirty-seven and forty of the article on legislative department in this constitution.

Sec. 15. *Employment of convicts.*—The penitentiary is a reformatory and an industrial school, and all persons confined therein shall, so far as consistent with discipline and the public interest, be employed in some beneficial industry; and where a convict has a dependent family, his net earnings shall be paid to said family if necessary for their support.

Sec. 16. *Liability of corporations.*—Every person, receiver or corporation owning or operating a railroad within this state shall be liable in damages for injury to, or the death of, any person in its employ, resulting from the negligence, in whole or in part, of said owner or operator or of any of the officers, agents or employes thereof, or by reason of any defect or insufficiency, due to its negligence, in whole or in part, in its cars, engines, appliances, machinery, track, road-bed, works or other equipment.

An action for negligently causing the death of an

employe as above provided shall be maintained by the executor or administrator for the benefit of the employe's surviving widow or husband and children; or if none, then his parents; or if none, then the next of kin dependent upon said deceased. The amount recovered may be distributed as provided by law. Any contract or agreement made in advance of such injury with any employe waiving or limiting any right to recover such damages shall be void.

This provision shall not be construed to affect the provisions of section two of article twenty-two of this constitution, being the article upon Schedule.

Sec. 17. *Uniform system of textbooks.*—There shall be a uniform system of textbooks for the public schools which shall not be changed more than once in six years.

Sec. 18. *Leasing of convict labor.*—The leasing of convict labor by the state is hereby prohibited.

Sec. 19. *Eight hours a day's work.*—Eight hours shall constitute a day's work in all cases of employment by and on behalf of the state or any county or municipality thereof.

Sec. 20. *An indictment may be waived.*—Any person held by a committing magistrate to await the action of the grand jury on a charge of felony or other infamous crime, may in open court with the consent of the court and the district attorney, to be entered upon the record, waive indictment and plead to an information in the form of an indictment filed by the district attorney, and further proceedings shall then be had upon said information with like force and

effect as though it were an indictment duly returned by the grand jury.

ARTICLE XXI—Compact with the United States

In compliance with the requirements of the act of congress, entitled, "An Act to enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original states; and to enable the people of Arizona to form a constitution and state government and be admitted into the Union on an equal footing with the original states," approved June twentieth, nineteen hundred and ten, it is hereby provided:

Section 1. *Religious freedom; polygamous marriage forbidden; liquor must not be sold to Indians.*—Perfect toleration of religious sentiment shall be secured and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship. Polygamous or plural marriages, polygamous cohabitation, and the sale, barter, or giving of intoxicating liquors to Indians, the introduction of such liquors into the Indian country, which term shall also include all lands owned or occupied by the Pueblo Indians of New Mexico on the twentieth day of June, nineteen hundred and ten, or which are occupied by them at the time of the admission of New Mexico as a state, are forever prohibited.

Sec. 2. *The national government's rights to cer-*

tain lands recognized.—The people inhabiting this state do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries thereof, and to all lands lying within said boundaries owned or held by any Indian or Indian tribes, the right or title to which shall have been acquired through the United States, or any prior sovereignty; and that until the title of such Indian or Indian tribes shall have been extinguished, the same shall be and remain subject to the disposition and under the absolute jurisdiction and control of the Congress of the United States; that the lands and other property belonging to citizens of the United States residing without this state shall never be taxed at a higher rate than the lands and other property belonging to residents thereof; that no taxes shall be imposed by this state upon lands or property therein belonging to or which may hereafter be acquired by the United States or reserved for its use; but nothing herein shall preclude this state from taxing as other lands and property are taxed, any lands and other property outside of an Indian reservation, owned or held by any Indian, save and except such lands as have been granted or acquired as aforesaid, or as may be granted or confirmed to any Indian or Indians under any act of congress; but all such lands shall be exempt from taxation by this state so long and to such extent as the Congress of the United States has prescribed or may hereafter prescribe.

Sec. 3. *State assumes certain debts.*—The debts and liabilities of the Territory of New Mexico, and the

debts of the counties thereof, which were valid and subsisting on the twentieth day of June, nineteen hundred and ten, are hereby assumed and shall be paid by this state; and this state shall as to all such debts and liabilities, be subrogated to all the rights, including rights of indemnity and reimbursement, existing in favor of said territory or of any of the several counties thereof on said date. Nothing in this article shall be construed as validating or in any manner legalizing any territorial, county, municipal or other bonds, warrants, obligations, or evidences of indebtedness of, or claims against, said territory or any of the counties or municipalities thereof which now are or may be, at the time this state is admitted, invalid and illegal; nor shall the legislature of this state pass any law in any manner validating or legalizing the same.

Sec. 4. *Public schools*.—Provision shall be made for the establishment and maintenance of a system of public schools which shall be open to all the children of the state and free from sectarian control, and said schools shall always be conducted in English.

Section five originally read as follows:

Sec. 5. This state shall never enact any law restricting or abridging the right of suffrage on account of race, color or previous condition of servitude; and in compliance with the requirements of the said act of congress, it is hereby provided that ability to read, write, speak and understand the English language sufficiently well to conduct the duties of the office without the aid of an interpreter, shall be necessary qualification for all state officers and members of the state legislature.

But on November 5, 1912, section five was amended to read as follows:

Sec. 5. *Right of suffrage*.—This state shall never enact any law restricting or abridging the right of suffrage on account of race, color or previous condition of servitude.

Sec. 6. *The capital*.—The capital of this state shall, until changed by the electors voting at an election provided for by the legislature of this state for that purpose, be at the city of Santa Fe, but no such election shall be called or provided for prior to the thirty-first day of December, nineteen hundred and twenty-five.

Sec. 7. *Reclamations*.—There are hereby reserved to the United States, with full acquiescence of the people of this state, all rights and powers for the carrying out of the provisions by the United States of the act of congress, entitled, “An Act appropriating the receipts from the sale and disposal of public lands in certain states and territories to the construction of irrigation works for the reclamation of arid lands,” approved June seventeenth, nineteen hundred and two, and acts amendatory thereof or supplementary thereto, to the same extent as if this state had remained a territory.

Sec. 8. *“Indian” and “Indian country” defined*.—Whenever hereafter any of the lands contained within Indian reservations or allotments in this state shall be allotted, sold, reserved or otherwise disposed of, they shall be subject for a period of twenty-five years after such allotment, sale, reservation or other disposal, to all the laws of the United States prohibiting the introduction of liquor into the Indian

country; and the terms "Indian" and "Indian country" shall include the Pueblo Indians of New Mexico and the lands owned or occupied by them on the twentieth day of June, nineteen hundred and ten, or which are occupied by them at the time of the admission of New Mexico as a state.

Sec. 9. *Land grants accepted.*—This state and its people consent to all and singular the provisions of the said act of congress, approved June twentieth, nineteen hundred and ten, concerning the lands by said act granted or confirmed to this state, the terms and conditions upon which said grants and confirmations were made and the means and manner of enforcing such terms and conditions, all in every respect and particular as in said act provided.

Sec. 10. *Congress must agree to change of this compact.*—This ordinance is irrevocable without the consent of the United States and the people of this state, and no change or abrogation of this ordinance, in whole or in part, shall be made by any constitutional amendment without the consent of congress.

ARTICLE XXII—Schedule

That no inconvenience may arise by reason of the change from a territorial to a state form of government, it is declared and ordained:

Section 1. *When constitution took effect.*—This constitution shall take effect and be in full force immediately upon the admission of New Mexico into the Union as a state.

Sec. 2. *Adopting a certain law of congress.*—Until otherwise provided by law, the act of congress of the United States, entitled, “An Act relating to liability of common carriers, by railroads to their employes in certain cases,” approved April twenty-second, nineteen hundred and eight, and all acts amendatory thereof, shall be and remain in force in this state to the same extent that they have been in force in the Territory of New Mexico.

Sec. 3. *Adopting another law of congress.*—Until otherwise provided by law, the act of congress, entitled, “An Act for the protection of the lives of miners,” approved March third, eighteen hundred and ninety-one, and all acts amendatory thereof, shall be and remain in force in this state to the same extent that they have been in force in the Territory of New Mexico, the words “Governor of the State,” are hereby substituted for the words “Governor of such organized territory;” and for the words “Secretary of the Interior” wherever the same appear in said acts; and the chief mine inspector for the Territory of New Mexico, appointed by the President of the United States, is hereby authorized to perform the duties prescribed by said acts until superseded by the “inspector of mines” appointed by the governor, as elsewhere provided by the constitution, and he shall receive the same compensation from the state as he received from the United States.

Sec. 4. *Territorial laws to remain in effect.*—All laws of the Territory of New Mexico in force at the time of its admission into the Union as a state, not

inconsistent with this constitution, shall be and remain in force as the laws of the state until they expire by their own limitation, or are altered or repealed; and all rights, actions, claims, contracts, liabilities and obligations shall continue and remain unaffected by the change in the form of government.

Sec. 5. *Extension of pardoning powers.*—The pardoning power herein granted shall extend to all persons who have been convicted of offenses against the laws of the Territory of New Mexico.

Sec. 6. *Territorial property becomes state property.*—All property, real and personal, and all moneys, credits, claims and choses in action belonging to the Territory of New Mexico, shall become the property of this state; and all debts, taxes, fines, penalties, escheats and forfeitures, which have accrued or may accrue to said territory, shall inure to this state.

Sec. 7. *Validations of bonds, etc.*—All recognizances, bonds, obligations and undertakings entered into or executed to the Territory of New Mexico, or to any county, school district, municipality, officer or official board therein, shall remain valid according to the terms thereof, and may be sued upon and recovered by the proper authority under the state law.

Sec. 8. *Processes and judgments remain in force.*—All lawful process, writs, judgments, decrees, convictions and sentences issued, rendered, had or pronounced, in force at the time of the admission of the state, shall continue and remain force to the same extent as if the change of government had not oc-

curred, and shall be enforced and executed under the laws of the state.

Sec. 9. *Courts and officers to hold until properly superseded.*—All courts existing, and all persons holding offices or appointments under authority of said territory, at the time of the admission of the state, shall continue to hold and exercise their respective jurisdictions, functions, offices and appointments until superseded by the courts, officers, or authorities provided for by this constitution.

Until otherwise provided by law, the seal of the territory shall be used as the seal of the state, and the seals of the several courts, officers and official boards in the territory shall be used as the seals of the corresponding courts, officers and official boards in the state; and for any new court, office or board created by this constitution, a seal may be adopted by the judge of said court, or the incumbent of said office, or by the said board.

Sec. 10. *Transfer of criminal and civil actions.*—All suits, indictments, criminal actions, bonds, process, matters and proceedings pending in any of the courts in the Territory of New Mexico at the time of the organization of the courts provided for in this constitution shall be transferred to and proceed to determination in such courts of like or corresponding jurisdiction. And all civil causes of action and criminal offenses which shall have been commenced, or indictment found, shall be subject to action, prosecution, indictment and review in the proper courts of the state, in like manner and to the same extent as if the

state had been created and said courts established prior to the accrual of such causes of action and the commission of such offenses.

Sec. 11. *Signing of the constitution.*—This constitution shall be signed by the president and secretary of the constitutional convention, and such delegates as desire to sign the same, and shall be deposited in the office of the secretary of the territory, where it may be signed at any time by any delegate.

Sec. 12. *Lawful debts of counties to remain valid.*—All lawful debts and obligations of the several counties of the Territory of New Mexico not assumed by the state, and of the school districts, municipalities, irrigation districts and improvement districts, therein, existing at the time of its admission as a state, shall remain valid and unaffected by the change of government, until paid or refunded according to law; and all counties, municipalities and districts in said territory shall continue with the same names, boundaries and rights until changed in accordance with the constitution and laws of the state.

Sec. 13. *This constitution must be submitted to the people.*—This constitution shall be submitted to the people of New Mexico for ratification at an election to be held on the twenty-first day of January, nineteen hundred and eleven, at which election the qualified voters of New Mexico shall vote directly for or against the same, and the governor of the Territory of New Mexico shall forthwith issue his proclamation ordering said election to be held on said day.

Except as to the manner of making returns of said

election and canvassing and certifying the result thereof, said election shall be held and conducted in the manner prescribed by the laws of New Mexico now in force.

Sec. 14. *Method of submission.*—The ballots cast at said election in favor of the ratification of this constitution shall have printed or written thereon in both English and Spanish the words “For the Constitution;” and those against the ratification of the constitution shall have written or printed thereon in both English and Spanish the word “Against the Constitution;” and shall be counted and returned accordingly.

Sec. 15. *Canvass of vote.*—The returns of said election shall be made by the election officers direct to the secretary of the Territory of New Mexico at Santa Fe, who, with the governor and the chief justice of said territory, shall constitute a canvassing board, and they, or any two of them, shall meet at said city of Santa Fe on the third Monday after said election and shall canvass the same. Said canvassing board shall make and file with the secretary of the Territory of New Mexico a certificate signed by at least two of them, setting forth the number of votes cast at said election for or against the constitution, respectively.

Sec. 16. *Constitution was sent to President and congress.*—If a majority of the legal votes cast at said election as certified to by said canvassing board shall be for the constitution, it shall be deemed to be duly ratified by the people of New Mexico, and the secre-

tary of the Territory of New Mexico shall forthwith cause to be submitted to the President of the United States and to congress, for approval, a certified copy of this constitution, together with the statement of the votes cast thereon.

Sec. 17. *Duty of governor when admission is complete.*—If congress and the President approve this constitution, or if the President approves the same and congress fails to disapprove the same during the next regular session thereof, the governor of New Mexico shall, within thirty days after receipt of notification from the President certifying said facts, issue his proclamation for an election at which officers for a full state government, including a governor, county officers, members of the state legislature, two representatives in congress to be elected at large from the state, and such other officers as this constitution prescribes, shall be chosen by the people; said election to take place not earlier than sixty days nor later than ninety days after the date of said proclamation by the governor ordering the same.

Sec. 18. *Result of first election.*—Said last mentioned election shall be held, the returns thereof made, canvassed and certified to by the secretary of said territory, in the same manner, and the same laws, including those as to qualifications of electors, shall be applicable thereto, as hereinbefore prescribed for holding, making of the returns, canvassing and certifying the same, of the election for the ratification or rejection of this constitution.

When said election of state and county officers, mem-

bers of the legislature, representatives in congress, and other officers provided for in this constitution, shall be held and the returns thereof made, canvassed and certified as hereinbefore provided, the governor of the Territory of New Mexico shall immediately certify the result of said election, as canvassed and certified as hereinbefore provided, to the President of the United States.

Sec. 19. *Assumption of duties.*—Within thirty days after the issuance by the President of the United States of his proclamation announcing the result of said election so ascertained, all officers elected at such election, except members of the legislature, shall take the oath of office and give bond as required by this constitution or by the laws of the Territory of New Mexico in case of like officers in the territory, county or district, and shall thereupon enter upon the duties of their respective offices; but the legislature may by law require such officers to give other or additional bonds as a condition of their continuance in office.

Sec. 20. *First legislative assembly.*—The governor of the state, immediately upon his qualifying and entering upon the duties of his office, shall issue his proclamation convening the legislature at the seat of government on a day to be specified therein, not less than thirty nor more than sixty days after the date of said proclamation.

The members-elect of the legislature shall meet on the day specified, take the oath required by this constitution, and within ten days after organization shall proceed to the election of two senators of the United

States for the State of New Mexico, in the manner prescribed by the constitution and laws of the United States; and the governor and secretary of the State of New Mexico shall certify the election of the senators and representatives in congress in the manner required by law.

Sec. 21. *Legislation required to make constitution effective.*—The legislature shall pass all necessary laws to carry into effect the provisions of this constitution.

Sec. 22. *Term of first officers.*—The term of office of all officers elected at the election aforesaid shall commence on the date of their qualification and shall expire at the same time as if they had been elected on the Tuesday next after the first Monday of November in the year nineteen hundred and twelve.

LIST OF MEMBERS OF STATEHOOD CONVENTION, 1910

Francis E. Wood, Herbert F. Raynolds, Nestor Montoya, E. S. Stover, A. A. Sedillo, M. L. Stern, Anastacio Gutierrez, H. B. Fergusson, Green B. Patterson, G. A. Richardson, John I. Hinkle, Emmett Patten, C. J. Roberts, Norman Bartlett, Geo. Brown, T. H. O'Brien, Chas. Springer, Francisco Gauna, T. J. Mabry, J. W. Childers, Frank W. Parker, Isidoro Armijo, W. E. Garrison, C. E. Miller, M. P. Skeen, C. R. Brice, W. D. Murray, A. H. Harllee, J. B. Gilchrist, W. B. Walton, J. G. Clancy, Raymond Harrison, Salome Martinez, Tranquilino Labadie, John Capping, J. J. Aragon, A. H. Hudspeth, J. N. Upton, George Page, Juan Navarro, Daniel Cassidy, Anastacio Medina, Emanuel Lucero,

Fred S. Brown, A. B. Fall, C. C. Vigil, F. C. Fields, G. W. Baker, J. A. Lawson, George E. Moffett, Reed Holloman, Charles Kohn, C. F. Saxon, J. L. House, C. C. Davis, T. D. Burns, V. Jaramillo, J. A. Lucero, Perfecto Esquivel, Samuel Eldodt, J. H. Crist, W. E. Lindsey, James Hall, Alejandro Sandoval, Epimenio Miera, R. W. Heflin, M. D. Taylor, C. M. Crampton, J. M. Cunningham, H. W. Kelly, S. B. Davis, A. Roybal, Luciano Maes, C. A. Spiess, E. Romero, Margarito Romero, N. Segura, T. B. Catron, J. D. Sena, G. W. Prichard, B. F. Pankey, V. Ortega, F. H. Winston, E. D. Titman, A. Abeytia, F. Romero, H. O. Bursum, H. M. Dougherty, O. G. Martinez, W. McIntosh, A. B. Macdonald, Acasio Gallegos, E. Gallegos, Solomon Luna, J. Becker, Silvestre Miraval.

CERTIFICATION

Done in open convention at the city of Santa Fe, in the Territory of New Mexico, this twenty-first day of November, in the year of our Lord, one thousand nine hundred and ten.

(Signed) CHARLES A. SPIESS,
President of the Constitutional Convention.

(Signed) GEORGE W. ARMIJO,
Secretary.

Proposed Amendments.—The second session of the first legislature approved three amendments which the people will vote for or against at the election to be held November 3, 1914. These amendments are placed here so that, if they are ratified by the people, the student may have access to them. Spaces are left for the students to record the vote of the people for and against each amendment.

ARTICLE X.

Section 2. All county officers shall be elected for a term of two years, and after having served two consecutive terms, shall be ineligible to hold any county office for two years thereafter.

Vote for.....

Vote against.....

Amendment was carried.

ARTICLE VIII

TAXATION AND REVENUE

Section 1. Taxes levied upon tangible property shall be in proportion to the value thereof, and taxes shall be equal and uniform upon subjects of taxation of the same class.

Sec. 2. Taxes levied upon real or personal property for state revenue shall not exceed four mills annually on each dollar of the assessed valuation

thereof except for the support of the educational, penal and charitable institutions of the state, payment of the state debt and interest thereon; and the total annual tax levy upon such property for all state purposes exclusive of necessary levies for the state debt shall not exceed ten mills.

Sec. 3. The property of the United States, the state and all counties, towns, cities and school districts, and other municipal corporations, public libraries, community ditches and all laterals thereof, all church property, all property used for educational or charitable purposes, all cemeteries not used or held for private or corporate profit, and all bonds of the State of New Mexico, and of the counties, municipalities and districts thereof, shall be exempt from taxation.

Sec. 4. Any public officer making any profit out of public monies or using the same for any purpose not authorized by law, shall be deemed guilty of a felony and shall be punished as provided by law, and shall be disqualified to hold public office. All public monies not invested in interest bearing securities shall be deposited in national banks in this state or in banks or trust companies incorporated under the laws of the state, and the interest derived therefrom shall be applied in the manner prescribed by law.

Sec. 5. The legislature may exempt from taxation property of each head of a family to the amount of two hundred dollars.

Sec. 6. Lands held in large tracts shall not be assessed for taxation at any lower value per acre

then [than] lands of the same character or quality and similarly situated, held in small tracts. The plowing of land shall not be considered as adding value thereto for the purpose of taxation.

Sec. 7. No execution shall issue upon any judgment rendered against the board of county commissioners of any county, or against any incorporated city, town or village, school district or board of education; or against any officer of any county, incorporated city, town or village, school district or board of education, upon any judgment recovered against him in his official capacity and for which the county, incorporated city, town or village, school district or board of education, is liable, but the same shall be paid out of the proceeds of a tax levy as other liabilities of counties, incorporated cities, towns or villages, school districts or boards of education, and when so collected shall be paid by the county treasurer to the judgment creditor.

Vote for.....

Vote against.....

Amendment was.....carried.

ARTICLE V

Section 1. The executive department shall consist of a governor, lieutenant-governor, secretary of state, state auditor, state treasurer, attorney-general, superintendent of public instruction and commissioner

or [of] public land, who shall be elected for the term of two years beginning on the first day of January next after their election.

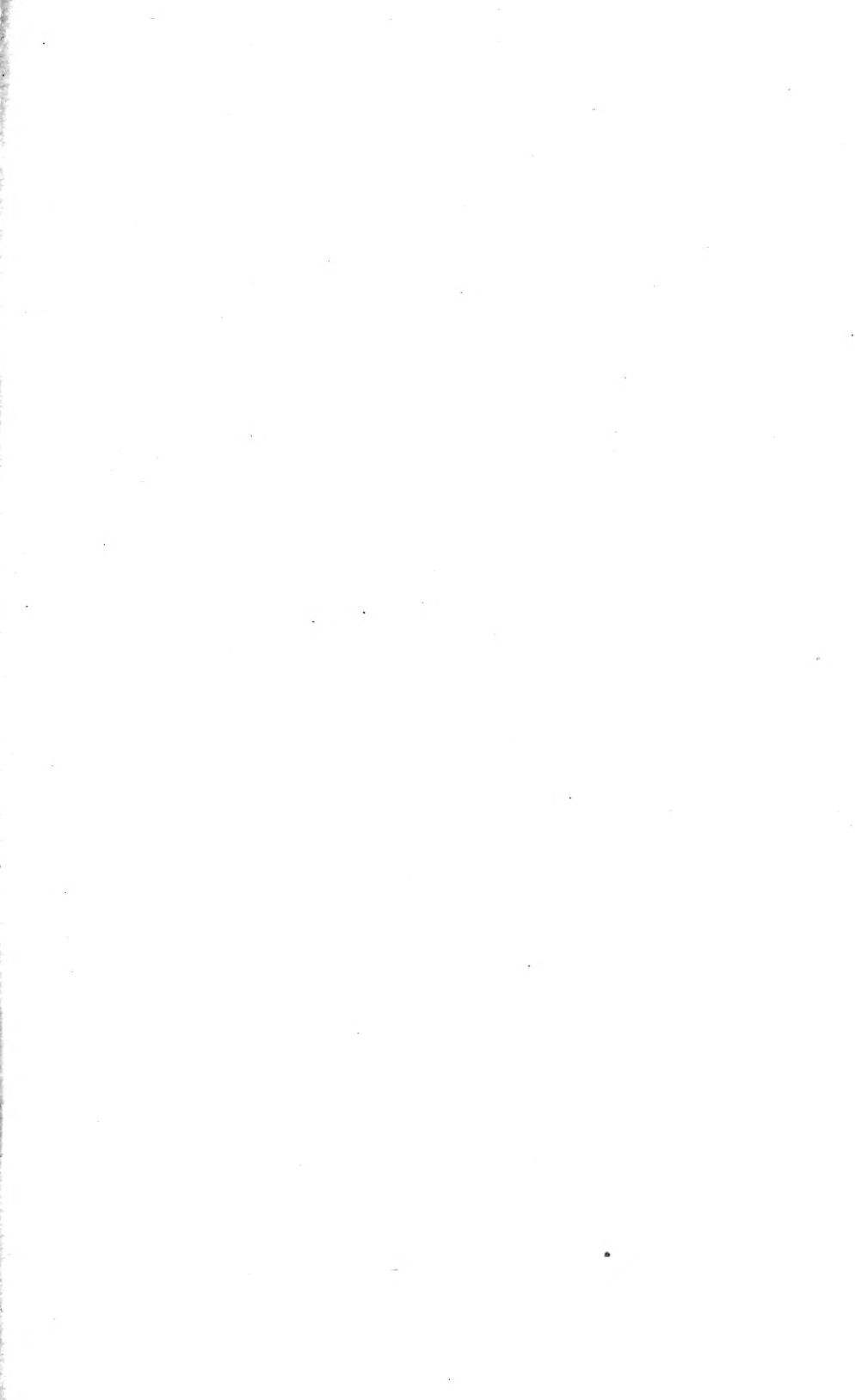
Such officers shall, after having served two consecutive terms, be ineligible to hold any state office for two years thereafter.

The officers of the executive department, except the lieutenant-governor, shall during their terms of office, reside and keep the public records, books, papers and seals of office at the seat of government.

Vote for.....

Vote against.....

Amendment was.....carried.





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